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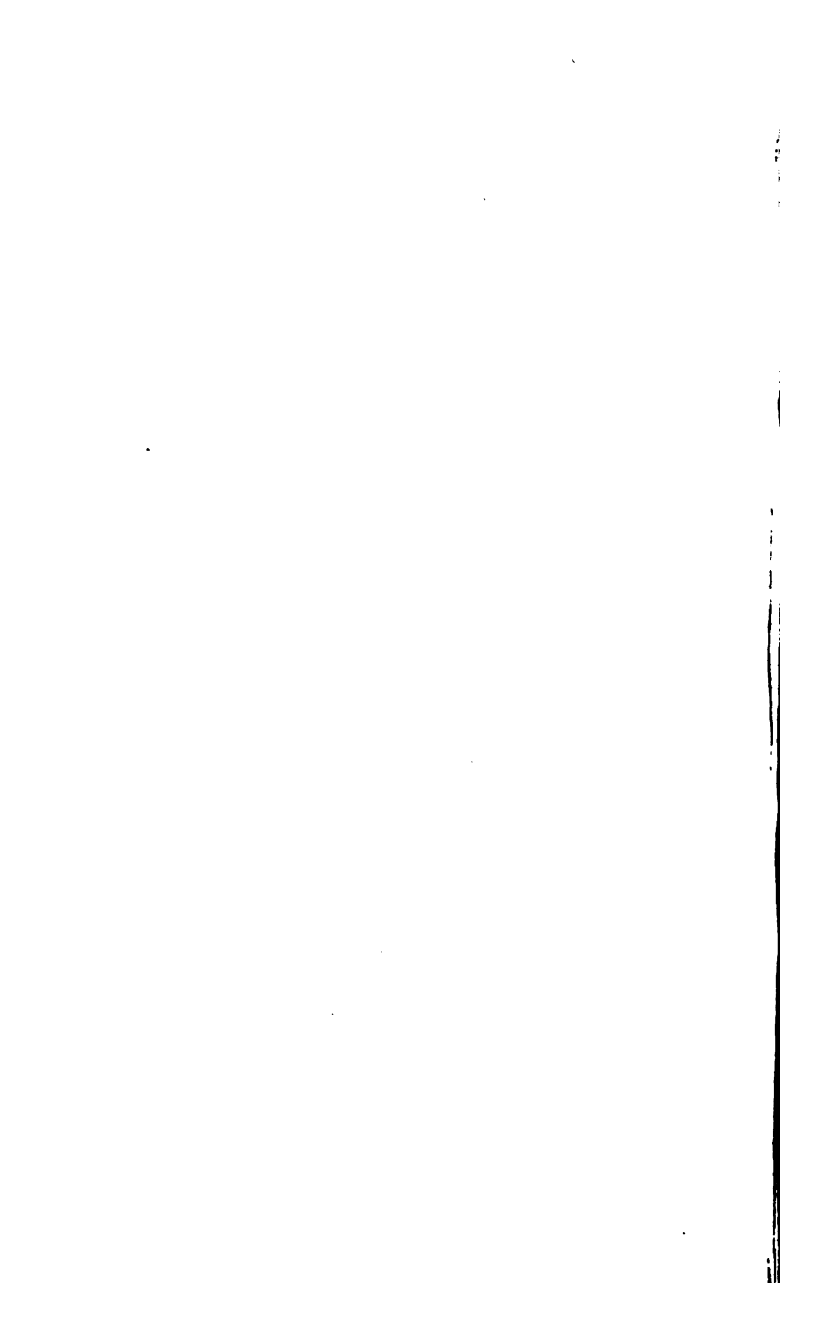
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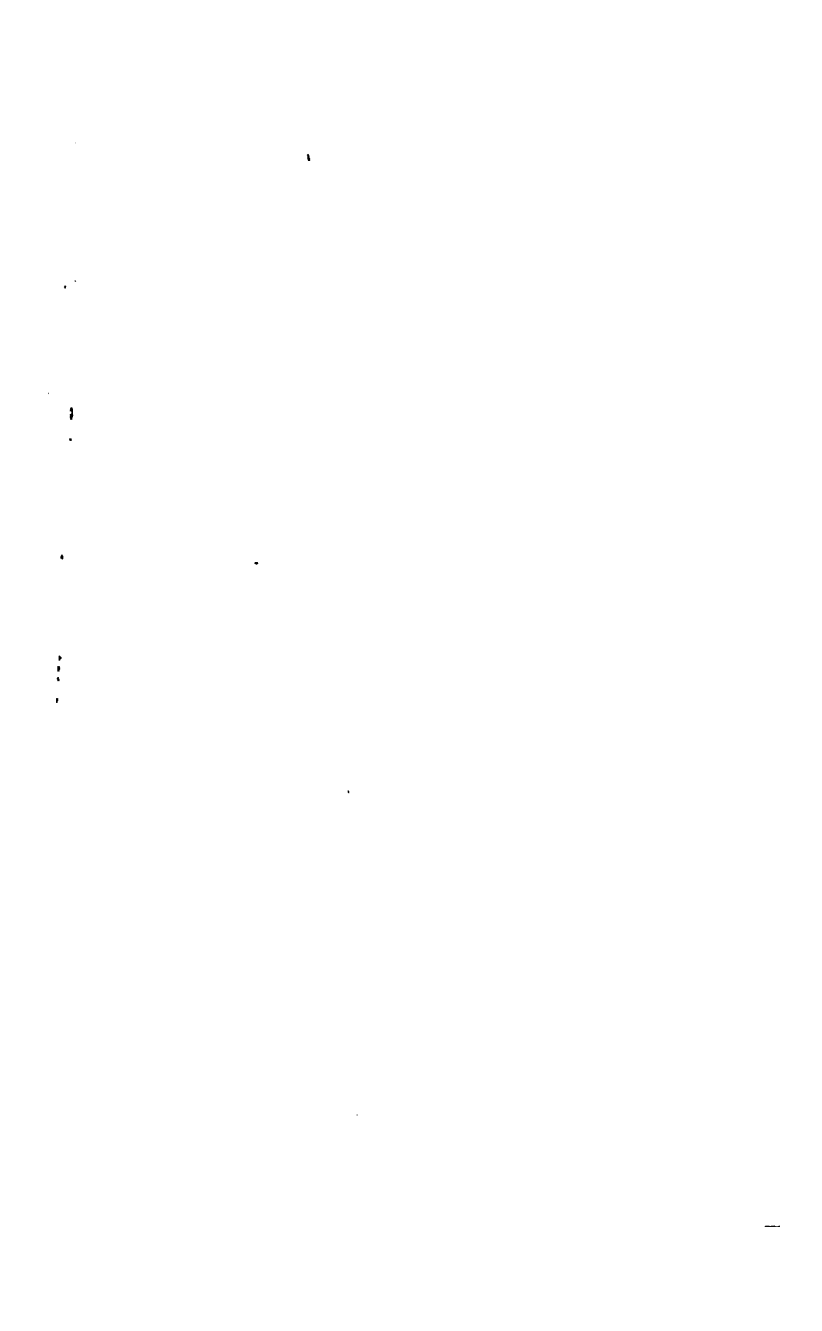
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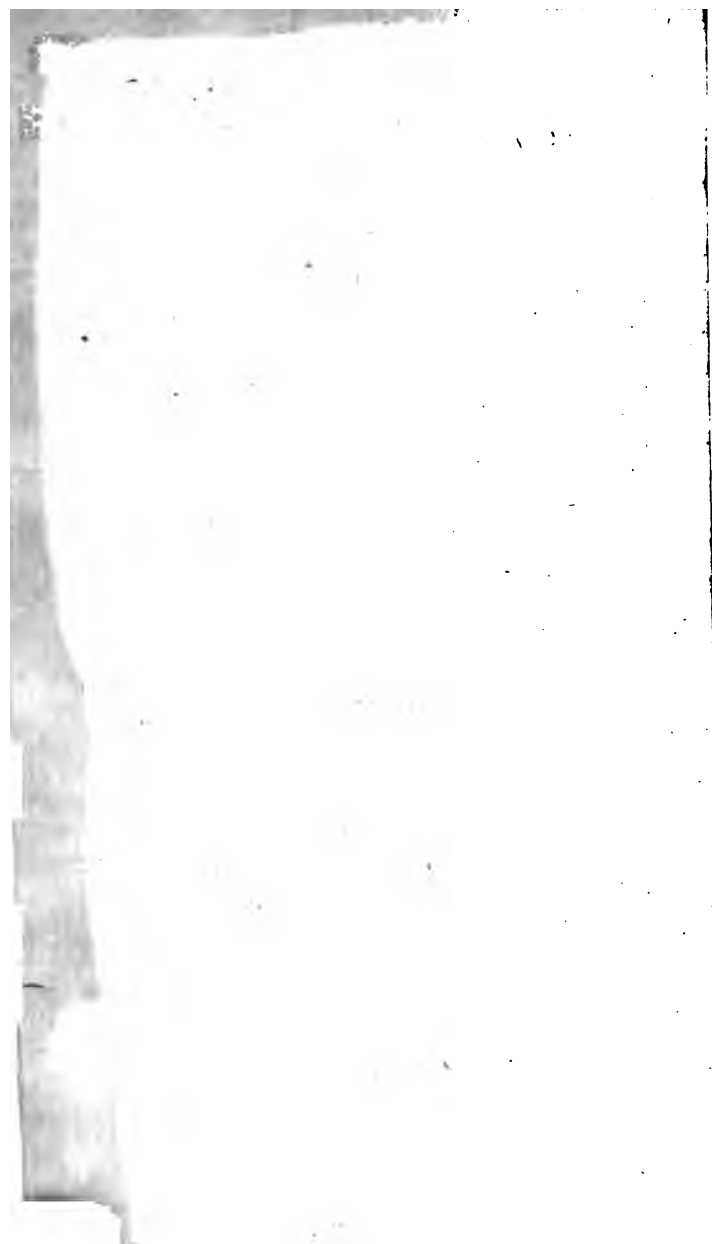




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 O F T H E
C I T Y O F L O N D O N:

C O N T A I N I N G.

The several Charters granted to the said City, from *William the Conqueror* to the present Time; the Magistrates and Officers thereof, and their respective Creations, Elections, Rights, Duties, and Authorities; the Laws and Customs of the City, as the same relate to the Persons or Estates of the Citizens; the Nature, Jurisdiction, Practice and Proceedings of the several Courts in *London*; and the Acts of Parliament concerning the Cities of *London* and *Westminster*, alphabetically digested under the following Titles, *viz.* Administration, Aldermen, Aliens, Annoyance, Apothecaries, Appeals, Asses, At-

taints, Ballast, Barbers, Bawdy-house, Billingsgate, Blackwell-hall, Brafs, Brokers and Stockjobbers, Buildings, Butchers, Butter and Cheese, Carts, Chairs, Churches, Coashes, Coals, Conduits, Constables, Coopers, Cordwainers, Corn, Debts, Drapery, Election, Fish, Fuel, Garbling and Gauging, Gold and Goldsmiths, Gunpowder, Highways, Jury, Market, Oilmen, Painters and Plasterers, Pavement, Physicians, Quo Warranto, Recognizances, Sewers, Stockjobbers, Streets, Tithes, Victuallers, Water, Watermen, Weights and Measures, and Wine.

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T O

32607 THE RIGHT HONOURABLE

Sir William Stephenson, Knt.

Lord-mayor of the City of London,

T H E

FOLLOWING TREATISE

O N T H E

Laws and Customs, Rights, Liberties

and Privileges, of that City,

Is most humbly inscribed, by

THE EDITOR.

MS. A. 9. 2. 36

ADVERTISEMENT.

THE limits, which the editor of the following sheets prescribed to himself, when he first conceived the idea of the utility of a treatise on the *Laws and Privileges of London*, not having permitted him to treat of some subjects in the extensive manner he might have done, the only apology he can now offer, is to promise, that if this design should appear to merit the public approbation, he will, in the *Second Edition*, supply every omission and defect which shall occur to him. He is, however, so far from being vain of his own abilities, that every proposal and hint for improving the work, either in form or substance, will be thankfully received and candidly acknowledged.

London, Dec. 22, 1764.

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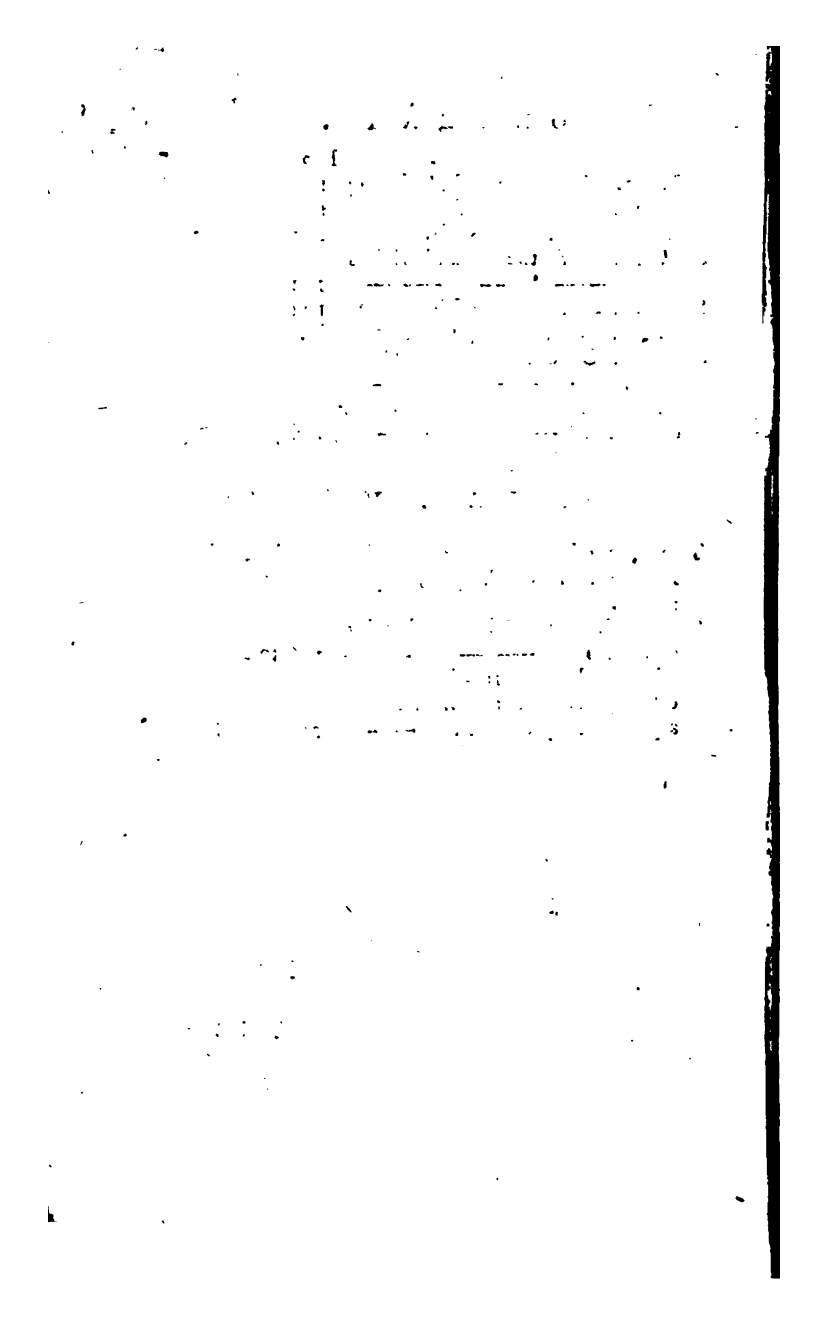
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THE



T H E
Laws and Privileges
O F
L O N D O N, &c.

C H A P. I.

An abridgement of the several Charters granted to the City of London, from William the Conqueror, to the present time.

WILLIAM the Conqueror grants to the city of London two charters; in the first of which he confirms to them the laws they enjoyed in the reign of king *Edward the Confessor*; appoints every child to be his father's heir after his death; and promises to suffer no man to do them wrong. The second charter is to the same effect.

Charters of
*Will. 1. See
Maitl. vol.
1. P. 37.*

Henry 1. grants them likewise a charter, where- in he grants the citizens of London to hold *Mid- dlesex* to farm for three hundred pounds, upon account, to them and their heirs, and that the said citizens shall place whom they will among themselves as sheriffs, and also as justices, to keep the * pleas of the crown, and none other to

Charter of
*Hen. 1. See
Maitl. vol.
1. P. 39.*

* *Pleas of the crown*, are all suits in the king's name, for offences committed against his crown and dignity.

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be justices over them ; and that the citizens shall not plead without the walls of the city concerning any * plea ; also to be free from || *scot and lot*, and from † *dane-guilt*, and from all ‡ *murder* ; excuses them from waging of battle ; and that if any citizen be impleaded concerning the pleas of the crown, the man of *London* shall discharge himself by his oath, which shall be adjudged within the city.

And farther, that none of the king's household, or any other, shall be lodged in the city of *London* by force, and that the citizens and their goods should be free, and that all their things throughout *England*, and the sea-ports, be free from all toll, § passage and ¶ *lestage*, and from all other customs : and that the churches, and ||| *Barons*, and citizens should peaceably hold their

* *Plea* is what either the plaintiff or defendant allegeth for himself in court.

|| *Scot and lot*, contributions or taxes laid upon subjects.

† *Dane-guilt*, a tax imposed on our *Saxon* ancestors, by king *Ethelred*, first of one, then of two shillings, on every hide of land, for clearing the seas of Danish pirates that then infested our coasts. This was given to the *Danes* on terms of peace and departure, and amounted at first to ten thousand, then sixteen thousand, then twenty-four thousand, then thirty-four thousand, and at last to forty-eight thousand pounds. *Henry I.* and king *Stephen* released them finally from paying this tax.

‡ *Murder*, signifies not only the crime, but (as here) the pecuniary mulct or punishment due for that crime ; so that to be quit or free of murder, was, that the place where it was committed, should not be fined or amerced, though the murderer escaped.

§ *Passage*, a duty paid for passing through a town, or port, gates, or bridges.

¶ *Lestage*, a toll paid for liberty for persons to carry their goods up and down to marts, markets, and fairs.

||| *Barons*. *Mat. Paris*, sub anno 1253, says, that the citizens, or men of *London*, in respect of the dignity of the city and antient liberties of the citizens, were wont to be called *Barons*. And the same author, sub anno 1258, says

Nobiles;

of London, &c.

3

their soke, so that the strangers that should be lodged in the † *soke*, should pay custom to him only to whom the *soke* doth belong, or to his officer.

Also that no citizen should be amerced, above one hundred shillings for any pecuniary punishment; that there should be no † *miskening* in the || *hustings*, nor in the § *folk-mote*, nor in any other plea within the city; that the hustings sit *Hustings*, once a week, viz. on *Mondays*, and that the citizens enjoy their lands, premises, bonds, and debts, according to the laws of the city; and if any shall take toll or custom of any citizen, the citizen shall within the city take of the burrough or town where the toll or custom was so taken, so much as the citizen gave for toll, and as he received damage thereby. And all debtors who owe the ci- *Attach-* tizens any debts, shall pay them in *London*, or dif- *ments*.

Nobiles Angliæ Convocarunt totius Civitatis Civēs quos Barones Vocant. And yet Dr. Brady thinks, that only the better sort of the citizens, as the aldermen, &c. are to be intended by the word *Barones* in the London charters, because the words in the second charter of Hen. 1. are *Barones et Civēs*. But this seems a mistake, for the fourth charter of king John, and the second charter of Hen. 3. says, *Sciatis nos Concessisse et confirmasse Baronibus nostris de Civitate London, quod eligant Sibi Major. &c.* which compared with the other charters, shews it to be a grant to all the freemen of the city; and consequently that the word *Baro* there, signifies only a freeman of the city.

† *Soke*, a liberty or privilege of jurisdiction within a certain place or precinct; also the court there held.

‡ *Miskening*, a changing or varying from a plea or court, that is, when one leaves his first declaration or plea, and gives another.

|| *Hustings*, derived from *bus*, a house, and *thing*, *causa*, that is, a house where causes are to be tried; or, according to Mr. Somner, from the Saxon word *hyhst*, or highest, and *thing*, *judicium*, *quasi*, the highest court of the city of London.

§ *Folk-mote*, according to Stow and others, signifies the general assembly of all the citizens. See Spelman, and Somner in Verbo, and Dr. Brady's Glossary, page 48.

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charge them themselves there, that they owe none; but if they will not pay the same, nor come thither to clear themselves, the citizens to whom such debts are due, may take *Namia Sua*, i. e. goods within the city of that burrough-town, or county where he remains who owes the debts.

Chafe and hunt. and also to have their chases and hunt in * *Cbiltre*, *Middlesex* and *Sarry*, in as full and ample manner as any of their ancestors ever had. †

Charter of *Hen. 2.* *Henry II.* grants to them another charter, by which he confirms to them all their former privileges; and farther grants, that no citizen, excepting only his ‡ monyers and officers, should be impleaded without the walls of the city, but only in foreign tenures. He also acquits them of *murder* (i. e. of payments made for it) within the city, and the || portfoken thereof, and that no citizen shall wage battle; and that of pleas of the crown, they may discharge themselves according to the old usage of the city. No man to take lodgings there by force, or by delivery of the marshal; also, that all the citizens shall be quit of toll and liffage throughout *England*, and the ports of the sea; and that none shall be adjudged for amerciaments of money, but according to the law of the city, which they had *Temp. Hen. I.* and that there shall be no miskenning in any plea within the city, and that the hustings shall be kept once a week, and they justly have their lands, tenures, and premisses, and all their debts, whofoever do owe them; and that right be done them

Foreign tenures.

Hustings.

* *Cbiltre*, part of the county of *Hertford*, about *St. Albans*, so called.

† *King Stephen* granted a charter to the whole kingdom, confirming all the liberties granted by *Henry I.* and also all the good laws and customs of *Edward the Confessor*.

‡ *Monyers*, are the coiners and officers of the mint.

|| *Portfoken*, an extent of jurisdiction or liberty from without the gates of the city, or, as some take it, the liberties within the port or city of *London*.

according

according to the custom of the city, of all their lands and tenures which be in the city, and of all their debts which were lent at *London*, and of promises or contracts there made, pleas to be holden at *London*. He also grants their huntings ^{Huntings.} wheresoever they had them *Temp. Hen. 1.* and if any in all *England*, shall take any custom or toll, off or from the men of *London*, after he shall fail of right, the sheriffs of *London* may take goods thereof at *London*; and further grants them to be free from all * *Bridtoll*, † *Childwite*, ‡ *Jeresgive*, and || *Scotale*, so as the sheriff of *London*, or any other bailiff, may take no *Scotale*, &c. all which *Scotale* privileges are granted to them and their heirs, to hold the same by inheritance of the said king and his heirs.

Richard I. ann. 5. grants them not to plead *Rich. 1.* or be impleaded without the walls of the city, ^{chart. 1.} excepting foreign tenures, and his own moneyers and ministers; he gave to them likewise an acquital of murder within the city, and in *Portfohen*. That none wage battle: that they discharge them- ^{Wager of} selves of the pleas of the crown, according to the ^{battel-} custom of the city. That none take lodgings in the city by force, or delivery of the marshal; that they be free from toll or lestage throughout *England*, and the sea-ports, &c. and confirms, ^{Grants of} *ver-* ^{Hen. 2. con-} *batim*, all their grants made by king *Henry* his ^{firmed,} predecessor.

* *Bridtoll*, that is, *bridgetoll*, or money paid for passing a bridge.

† *Childwite*, money paid, or a punishment for corrupting or getting a bondmaid with child.

‡ *Jeresgive*, is a toll or fine, taken by the king's officers, on a person's entering into an office; or rather a sum of money, or bribe, given to them to connive at extortion, or other offence in him that gives it.

|| *Scotale*, a practice of the king's officers who kept ale-houses, or brewed liquors, and forced men to come to their houses and pay contributions, called *Scotales*, for fear of their displeasure.

Rich. 1. *Richard I. ann. 8.* grants them a second charter, by which all the weirs in the river *Thames* are to be removed; and the keepers of the *Tower*, for the future, not demand or exact any thing of any person, by reason of the said weirs, for ever.

John ch. 1. King *John* grants the city of *London* five several charters: in the first, *ann. 1.* he confirms all the grants made to them by his ancestors, and is almost *verbatim* as those of *Hen. II.* and *Rich. I.*

John, ch. 2. In the second, *ann. 1.* he confirms to them the sheriffwick of *London* and *Middlesex*, with all the customs belonging to it, both by land and water, as well within the city as without, to hold the same at the annual rent of three hundred pounds, payable in equal proportions at the *Easter* and *Michaelmas* Exchequer.

He further grants them power to choose and remove their sheriffs, and makes the said sheriffs presentable and accountable to the justices of his *Exchequer*; and in case the said sheriffs themselves should prove insolvent, and not able to satisfy the amerciaments and farm, then the citizens to be accountable, saving to the said citizens their liberties aforesaid. The said sheriffs likewise enjoy the liberty of other citizens, and not to be amerc'd above twenty pounds, and that not to endamage any of the other citizens, though the sheriffs are not sufficient.

And that if the sheriffs commit any offence by which they incur the loss of their lives or members, they shall be adjudged according to the laws of the city; that is, be tried by citizens before the justices of the *Exchequer*. He likewise confirms to them the sheriffwick of *London* and *Middlesex*, at three hundred pounds *per annum*, and forbids all persons to do any damage to the citizens of *London*, in those things that belong to the sheriffwick; and withal he grants, that if any thing should be given away by him or his heirs,

heirs, which of right belongs to the sheriffs of London, the same to be allowed on account of the Exchequer.

In the third, *ann.* 1. he again commands all wears in the *Thames* and *Medway*, to be removed, and that no wears for the future be put up any where in the *Thames* and *Medway*, upon the forfeiture of ten pounds sterling. He likewise clearly remits all that the keepers of the *Tower* of *London* were wont to exact yearly upon the account of the said wears, and forbids the said keepers to exact any money, or give any person any trouble by reason of the same. *John, ch. 3.*
Wears in the
Thames and
Medway re-
moved.

In the fourth, *ann.* 16. he likewise commands the removal of all wears, &c. and grants to the *Barons* of the city of *London* yearly, to choose a mayor; the said mayor to be presented to him, or in his absence to his justices; at the end of the year, to proceed to choose another, or to retain the same, presenting him again to him, or in his absence to his justices. He likewise confirms to them all their former immunities, saving only the *Chamberlainship* to himself. *John, ch. 4.*
Mayor to be
chosen.

In the fifth charter, said to be *ann.* 3. he grants that the guild of the weavers shall not be in the city; and that whereas the said guild were wont to pay him eighteen marks yearly, he agrees with the citizens to pay him twenty marks into the *Exchequer* for a gift, &c. *Chamber-
lainship re-
served.*
John, ch. 5.
Weavers
guild.

Henry III. *ann.* 11. grants the city of *London* a new charter, confirming the sheriffwick of *London* and *Middlesex*, at the yearly rent of three hundred pounds *per annum*, as aforesaid; as also, liberty to choose and remove their sheriffs; orders the said sheriffs to be presented at the *Exchequer*; and the citizens (if the sheriffs do not answer the amerciaments, and the farm,) to do it themselves, saving their liberties as aforesaid, and the said sheriff their other liberties. *Hen. 3, ch. 1.*
Sheriffwick
confirmed.

Amerce-
ments, 201.

He orders the ameraciements of the sheriffs not to exceed twenty pounds, and that if they do any offence whereby they ought to incur the loss of their lives or members, that, according to the law of the city, they be judged before the justices of the *Exchequer*. He repeats again their former grant of holding the sheriffwick of *London* and *Middlesex*, quietly, honourably, and wholly by the farm of three hundred *per annum*; and provides, that if himself or any of his justices, shall grant to any person any thing belonging to the sheriffwick of *London*, &c. that it shall be accounted for to the citizens of *London*, in the acquital of the said farm in the *Exchequer*.

Hen. 3. ch. 2.
Mayor con-
firmed.

In his second charter, *ann.* 11. he grants to the *Barons* of *London*, the liberty to choose a mayor; orders that he be presented, after his election, to him, or in his absence to the justices. That at the end of the year, they proceed to a new choice: that the said *Barons* enjoy all their liberties, saving only the *Chamberlainship* reserved to himself.

Chamber-
lainship re-
served.

Hen. 3. ch. 3.

In his third charter, *ann.* 11. he commands the removal of all the wears in the river of *Thames* and *Medway*. He forbids the keepers of the *Tower* of *London* to demand any thing as they were wont formerly, upon account of their wears, and declares the said wears to be injurious, not only to the city of *London*, but to the whole realm*.

Wears re-
moved.

Hen. 3. ch. 4.

In his fourth charter, *ann.* 11. he grants that no citizen plead without the walls of the city, excepting his moneyers and ministers, and in foreign tenures. He likewise grants to them an

* It is said by *Calthorp*, in his tract of the city's liberties, p. 15. that the king's hand, as well as seal, was set to this charter; the like whereof (says he) I never did hear or read of before.

acquital.

acquital of all *murther* within the walls of the city. That no citizen be obliged to wage battle, and that they have liberty to discharge themselves of the pleas of the erown according to the custom of the city. That none be lodged upon them by force. That they be free from all *toll, left-age, &c.* throughout *England*. That they be amerced according to the law of the city. That there be no miskenning in any pleading in the city. That the *Hustings* sit once a week. That they enjoy their debts, &c. according to the custom of the city. That pleas for debts lent in *London*, be holden in the city. That they enjoy their former liberty of hunting. That they be quit of all *Bridtoll, Childwite, Jeregive, and* of all *Scotale*, as aforesaid; and that they and their heirs hold their liberties of him and his heirs hereditarily.

Pleadings within the city.

Amerciaments.

Hustings.

Hunting.

Liberties held.

In his fifth charter, he grants the warren of *Stanes, &c.* to the inhabitants of the county of *Middlesex*, and gives leave that the same should be diswarrened and disforested, &c.

Hen.3. ch.5.
Warren of Stanes granted.

In his sixth charter *ann. 11.* the covenant between the king's brother *Richard*-earl of *Cornwal*, and the mayor and commonalty of *London*, concerning *Queen-bith*, is repeated, and *Queen bith* granted to the city at the yearly rent of fifty pounds, to be paid at two equal proportions every year in *Clerkenwell*: which grant not long after was solemnly confirmed by the king for him and his heirs, &c.

Hen.3. ch.6.

Queen-bith granted.

In his seventh charter, *ann. 37.* he grants to the citizens of *London, &c.* all their liberties and free customs, which they had in the reign of *Henry* his grandfather. He appoints that the mayor be yearly presented to him, or in his absence, to the barons of the *Exchiquier* at *Westminster*; and allows to the sheriffs of *London* yearly, seven pounds, upon account for the liberty of *St. Paul's*.

Hen.3. ch.7.

Mayor to be presented.

St. Paul's liberty.

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Paul's, and that the citizens throughout all his dominions, both here and beyond sea, be quit of all tolls and custom, &c.

Hen. 3. ch. 8. In his eighth charter, *ann. 50*, he grants to the citizens of *London* to traffick with their merchandizes where they pleased, as well by sea as land, and grants them a general immunity from all toll, &c.

Hen. 3. ch. 9. In his ninth charter, *ann. 52*, (the citizens having forfeited their former charters) he is reconciled to them, and grants as follows; that none of them be compelled to plead without the walls of the city, except foreign tenures, and his moneyers and officers, and such other matters which are contrary to the peace of the realm, &c. he grants them likewise acquittal of murder, in the city and *portoken*, and that none of them may wage battle, and that they may discharge themselves of the pleas of the crown according to their antient custom; except only that they shall not swear upon the graves of the dead, but that others be chosen to do that which the deceased should have done in his life: and he also grants that none shall lodge within the walls of the city, and in *portoken*, by force, or by delivery of the marshal.

Free trade any where. He further grants them liberty to dwell with their merchandises, and to trade free in any part of his dominions, and as well on this, as beyond the seas, to be free in all his sea-ports, from all toll, liffage, &c. excepting only his custom and prizes of wine, which was, for one tun before, and another behind the mast, twenty shillings; and withal grants, that if any person take any toll of them contrary to his grant, that the sheriff of *London* shall take their goods by * *Withernam* at *London*. Also

* *Withernam*, by some is defined to be *Vetitum namium*, that is, an illegal taking of goods, &c. But others more rightly deriving it from the Saxon *wiðer*, *rufus*, and *nam*, *Captio*,

of London, &c.

21

Also that the *Hustings* be holden once a week, and that the citizens have right done them within the city for their lands and tenures, according to the antient custom of the city; that they have liberty to appoint their attorney, as well in Attornies, pleading as defending there, as elsewhere in our courts. That there be no miskenning in their pleas, *i. e.* where they have not declared altogether well. And that of all debts, promises, &c. Pleadings in made in *London*, pleas be there holden accord. *London*. ing to their antient custom, and that all be quit of *Childwite* and *Jeregive*, and from *Scotage*. That the citizens have and hold lands, debts, and tenures, as formerly. That there be no fore- No forestall- stalling, &c. upon the forfeiture of the goods. ing. bought after that manner, and imprisonment.

Also that no goods be put to sale before the Customs le- custom be levied, without great punishment, and vied. the forfeiture of the said goods. That no Goods stranger buy any goods before they be weighed weighed. at the king's beam, upon forfeiture of the said goods. Further he grants, that the citizens, for Citizens debts enroll- the better security of their debts, might have li- ed in the Exchequer. berty to enrol them in the *Exchequer*; but no debt to be enrolled unless testified by six or four witneses, and that they pay for every pound so enrolled, one penny for his use; and likewise grants, that they enjoy all their former customs, provided they are not contrary to right law and justice, making a reserve to himself touching Jews and merchant-strangers.

Edward I. by his charter, ann. 26, appoints Jewe and merchants that the mayor and sheriffs of *London*, be pre- strangers. sented in his absence to the barons of the *Ex- Edw. 1.* chequer at *Westminster*, till his next coming to Mayor pre- sented. *Westminster* or *London*, and then to be presented to himself, &c. or in case that he, nor the said ba-

Captio, have shewn that it signifies a recaption, or taking again, that is, a taking of something in lieu of another thing unjustly taken or detained.

himself

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rons shall be at *London* or *Westminster*, then they shall be presented to the constable of the *Tower*. He also grants to the citizens aforesaid, that they be for ever free from * Pannage, † Pontage, and ‡ Murage. That the sheriffs of *London* be amerced as the sheriffs of other counties; and that the citizens enjoy all their former liberties, freedoms, quittals, and free customs.

Edward II. ann. 15. in return for several kindnesses mentioned at large in his charter, (granted to the citizens of *London*, viz. That whereas they assisted him with armed footmen at the castle of *Leeds* in *Kent*, &c.) grants that the same aids &c. shall not be prejudicial to the mayor, &c. nor be drawn into example.

Edw. 3.
ch. 1.

Edward III. ann. 1. grants the citizens of *London* a very large and beneficial charter; wherein, according to the great charter, or the liberties of *England*, i. e. *Magna Charta*, all their antient liberties and customs are restored, and all usurpations of their former liberties revoked and annulled. He grants that the mayor and his successors be one of the justices of the gaol delivery of *Newgate*, to be named in every commission; and that they have || infangtheft, and || outfingtheft, and chattels of felons, &c. ¶

The mayor
a justice for
the gaol de-
livery of
Newgate.

* *Pannage* or *parwnage*, a duty paid to the king for pasturage of cattle; but Mr. *Bobun* seems rather to think it misprinted for pavage, or money paid towards the paving of streets or highways.

† *Pontage*, a duty paid for passing over bridges with horses, carts, carriages, &c. or under them with boats, ships, &c. toward repairing such bridges.

‡ *Murage*, a contribution toward repairing the walls and edifices of a city.

|| *Infangtheft*, a liberty granted to lords of manors, to try and judge any thing taken in their fee: *Outfangtheft* is a like liberty for any thief taken out of their fee.

¶ See *Hollinhead*, 343. That by this charter the king granted, that the franchises of the city should not thenceforth be seized into the king's hands for any cause, but only for treason and rebellion, shewed by the whole city.

Also that according to former charters, the Sheriffwick only pay three hundred pounds *per annum*, for the Sheriffwick of London and Middlesex. He also Mortmain grants to the citizens, liberty to devise their lands in London in mortmain, or otherwise as they were wont in former times. He likewise grants that the sheriffs of London should not be amerced any otherways for the escape of thieves, &c. than other sheriffs on this side Trent; and that the citizens of London should not be charged with the custody of those that fly to the churches within their liberty for sanctuary, otherwise than of old accustomed, and that they may remove all wears in Thames and Medway, and have the punishments thereof.

Amercements of
sheriffs.

That all merchant strangers that come to Eng- Sale of mer-
land to sell their merchandizes, &c. should be chant stran-
obliged to dispose of them in forty days: that gers goods.
they should not keep houses, but sojourn with the citizens, &c. he also grants that neither the marshal, steward, nor clerk of the market, of Clerk of
his household, should sit or exercise any power market.
within the city. That the citizens should not be forced to plead out of the city. That no Escheator,
escheator exercise any power within the city, but that the lord mayor for the time being, execute the office of escheator, and take an oath for the due performance thereof, and account with the king and his heirs.

That the citizens, from henceforth, should not War out of
be obliged to go or send to war out of the city. the city.
That the constable of the Tower, &c. should not make any prizes in any respect, or arrest any boats bringing victual to the said city. That the citizens, as they were wont formerly, should have their keepers among themselves to hold their pleas touching their Covenants or Contracts, in the good fairs of England. That the sheriffs of London take no oaths at the Exchequer, but upon the giving up their accounts. He likewise restores

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Former liberties re-
stored.

restores to them all their former liberties and customs, which the justices of the *Tower* in their circuit had compelled them to claim, &c. He grants, that one writ of allowance of their charters should be sufficient for one king's time; and that no summons, attachments, or executions, be made by any of the king's officers within the liberties of the city, but only by the officers of the city; and that the sheriffs of the said city may lawfully take forfeitures of victuals and other things and merchandizes. He likewise grants, that if in the last circuit of the *Tower*, any thing was done or attempted contrary to their liberties, that the same should not be prejudicial to them, &c.

That the citizens of *London*, should be taxed in subsidies as other commons of the kingdom, and not as citizens. That they be quit of tallage, and that the liberty of the city be not taken into the king's hands for any personal trespass or judgment of any minister of the city; neither shall a keeper of the city for that reason be deputed, but the same minister shall be punished only according to his offence.

Purveyors.

prize.

That no purveyor, or any other officer belonging to him or his heirs, should make any prize of the goods belonging to citizens without their consent, nor make any prize of their wines against their wills, &c. He likewise forbids his purveyors or other officers, to merchandize in any commodity that related to their office. That all lands without the city, belonging to the officers of the same, be kept harmless, as their tenements are within the city. He also grants that no market be within seven miles of *London*. That all inquisitions be taken by the justices of *London*, in *St. Martins le Grand*, and not elsewhere, except the inquisitions to be taken for the *Tower* of *London*, and gaol delivery of *Newgate*; and that none of the freemen of the said city

No market within seven miles.
Inquisitions taken in *St. Martins le Grand*.

Should be impleaded or troubled at the *Exchequer*, or elsewhere, by bill, except it be by those things that concern us and our heirs, &c.

In his second charter, granted in parliament, *Ed. 3. ch. 2. ann. 1.* he grants to the city of *London*, the vil-^{*Southwark*}lage of *Southwark*, with the appurtenances, pay-^{granted.}ing yearly at the *Exchequer* the farms thereof due and accustomed.

In his third charter, *ann. 11.* granted in par-^{*Ed. 3. ch. 3.*}liament to the city of *London*, the *York* statute is ^{Customs ac-}recited, wherein is enacted, that all merchant-^{cording to}strangers, as *English*, should sell their commo-^{*Magna*}dities, of what sort soever, at any cities, towns,^{*Charta.*}or boroughs; notwithstanding their charters, liberties, &c. granted to the contrary. Nevertheless, the citizens of *London* are to enjoy their customs according to *Magna Charta*, &c.

In his fourth charter, *ann. 28.* he grants, that ^{*Ed. 3. ch. 4.*}the serjeants of *London* may bear maces of gold ^{Maces of}or silver, within the liberties of the city of *Lon-*^{gold and sil-}*don*, or without, in their attendance upon the ^{ver.}king or royal family.

In his fifth charter, granted, *ann. 50.* in par-^{*Ed. 3. ch. 5.*}liament, he grants to the city of *London*, that ^{Merchant-}the merchant-strangers coming into *England*, ^{strangers to}should board with a free host of the city, and not ^{board, and}keep houses; and that there should be no brok-^{not keep}ers from henceforth, but what were chosen by ^{houses.}the merchants which belong to the mystery in which the said brokers exercise their office. ^{Brokers.}

In the same charter, upon the humble petition of the mayor, aldermen, &c. The king in parliament grants to the city of *London*, that no ^{Strangers}stranger should sell any goods by retail, or keep ^{not to sell by}any house, or be a broker to the said city or ^{retail.}suburbs. †

Henry

† A charter was granted in parliament to the city of *London*, *ann. 7. R. 2.* See *Cotton's records*, 294, 466, &c.
By

Laws and Privileges

Hcn. 4.

Henry IV. in his charter, *ann. 1.* granted to the city of *London* for himself and his heirs, to the citizens and their heirs, to have the custody as well of the gates of *Newgate* and *Ludgate* as of all other gates and poffers belonging to the said city; with the office of gathering all toll and customs in *Cheap*, *Billingsgate*, and *Smithfield*, and also the tronage, *i. e.* the weighing lead, wax, pepper, allom, madder, and the like.

Custody of gates.

Gathering tolls.

Ed. 4. ch. 1.

Edward IV. in his first charter, *ann. 2.* grants to the city of *London*, for the more firm and entire establishing of the good government of the same, that they hold and enjoy all their liberties and free customs, as whole and sound as they had, and held them of any of his progenitors. He likewise grants that the mayor, recorder, and such aldermen as have been mayors, shall be discharged of the said office, and shall be justices of the peace for the putting all ordinances which are for the preservation of the peace and good government of the city, and of the suburbs and liberty thereof, as well by land as water, in execution; and that the said mayor, recorder, and aldermen, be justices of *Oyer* and

Liberties and free customs confirmed.

Mayor of the quorum.

Sheriffs attendant.

Saving the city's customs.

Customs certified by word of mouth.

Terminer; and that the mayor for the time being, and his successors be of the *quorum*. And that the sheriffs of the city of *London*, be attendant upon the said justices; and aiding and assisting to them in preserving the peace of the city, as aforesaid; saving always to the said mayor, recorder, aldermen and citizens, their customs, liberties, &c.

He also grants to the city of *London*, that the customs of the said city be certified and recorded by word of mouth; and that the mayor and al-

By which charter all their ancient liberties and customs are restored and confirmed; all which you may find collected, and alphabetically digested in a tract said to be compiled by Sir Henry Calthorp, knight, and printed in the year 1642.

dermen.

dermen of the city, and their successors, do declare by the recorder, whether the things under dispute be a custom or not; and also grants the mayor, aldermen, and commonalty of the said city, that there be no forfeiture of the premises, upon the account of any non-user, or abuser, &c.

Also, that all persons inhabiting within the same, or the suburbs, or liberties thereof, should be contributory in proportion to their respective faculties, &c. to all taxes, grants, and talliages, &c. excepting only the merchants of *Almain*, which had a house in *London* commonly called, *Guild-hall* of the *Almains*. Inhabitants. to contribute to all taxes, &c. except merchants of *Almain*.

That the aldermen of the said city should not be put upon assizes, attainments, or juries, so long as they continue aldermen; and that those that have bore the office of mayor, should be utterly exempted for ever. Mayor and aldermen exempted from juries, &c.

Also, that the aldermen of *London* should not be collectors, or taxers, out of the city; and if they should be chosen to any of the said offices, they should not incur any penalty or imprisonment, upon the account of their refusal. And-being collectors of taxes out of the city.

And whereas there were certain doubts concerning the use of some liberties belonging to the town of *Southwark*, formerly granted to the citizens of *London* by king *Edward III.* this king grants to the said city in a very large and extensive manner, the said town of *Southwark*, with all the appurtenances; and also all waifs, felons' goods, estrays, &c. and all treasure-trove in the town aforesaid, of all handy-works, goods and chattels of all traitors, felons, fugitives, and out-laws. Southwark granted. felons' goods and estrays, &c. Traitors' laws.

Also all goods disclaimed, or found in the said town, with all escheats and forfeitures, as fully and wholly as he should have, if the town were in his own hands; and that it shall be lawful for the Mayor, &c. to take pos-

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feffion of the mayor, &c. to put themselves into poffeffion thereof.

Affize of bread, &c. He alfo grants to the mayor and commonalty of *London*, the affize of bread, wine, &c. victuals, and things falable in the faid town; as

Clerk of the market. alfo the clerkship of the market belonging to the faid town, with all forfeitures and fines.

Fines and forfeitures. And that the execution and return of writs, &c. be by the officers of the city of *London*, and Execution of that neither the king's clerk of the market, nor writs, &c. the fheriff of *Surry*, do in any refpect intermeddle therein.

A fair with a pyepowder court. Alfo to hold a fair three days in the year, viz. the feventh, eighth, and ninth, days of *September*, and that they may from time to time, have a court of *pyepowders*, with all fummmons, attachments, &c. belonging to the fame, and View of frankpledge. alfo that they may have a view of frank pledge, with all that thereunto appertaineth, &c.

Felons, &c. in *Southwark*, to be fent to *Newgate*. He alfo grants that the mayor, commonalty, or their deputies, may take and arreft all felons, thieves, &c. and commit them to *Newgate*, which are apprehended in *Southwark*; and further grants to the mayor and his fucceffors, &c.

The town granted at 10 l. rent. that they may for ever have the town aforefaid, with all the liberties, &c. in as large a manner as if the fame were in his own hands, paying for the fame only ten pounds, for the antient farm; the rights of the archbifhop of *Canterbury* only excepted.

Archbifhop's right excepted. In his fecond charter, ann. 3. he grants to the Ed. 4. ch. 2. mayor, commonalty, &c. the * *tronage* and *Tronage*, weighing of wool, by whom, or from whatfoever parts brought to the faid city of *London*, and that all wool that formerly was brought to the ftaple of *Weflminfter*, be henceforth brought to

* *Tronage*, is a duty paid at the city beam, for weighing lead, wax, pepper, allom, &c.

Leadon.

Leaden hall, within the said city ; and, that there be no other staple within three miles of the same, &c.

In his third charter, *ann.* 18, he grants to the *Ed. 4. ch. 3.* citizens of *London, &c.* upon their releasing of one thousand nine hundred and twenty-three pounds, nine shillings, and eight pence, out of a certain sum of twelve thousand nine hundred and twenty-three pounds, nine shillings and eight pence, then owing to the city from the king, license to purchase two hundred marks *per annum*, in *† mortmain* ; and also grants to any person, liberty to grant to the said city of *London*, two hundred marks *per annum*, in mortmain, as aforesaid, to enjoy and hold the same, without any letters patent, or any inquisition upon any writ of *ad quod damnum*, or any other the king's commandments, &c. with privilege to have as many writs of *ad quod damnum*, as shall be sufficient for their utmost satisfaction for the said sum of one thousand nine hundred and twenty-three pounds, nine shillings, and eight pence. †

In his fourth charter, *ann.* 18. he grants to *Ed. 4. ch. 4.* the said citizens of *London*, in parliament, in consideration of the sum of seven thousand pounds, the respective offices of packing, port-*Packing,* age, garbling, gauging, and wine drawing, the *garbling, &c.* same to be executed by them, or their sufficient deputies (*See the charter at large*) and also grants them, in consideration of the said sum of seven thousand pounds, the office of coroner, with *Coroner's* power to the mayor and commonalty, to grant *office, &c.* the said office of coroner to whom they pleased ; and also that the mayor and aldermen, &c. as aforesaid, might have full power and autho-

† *Mortmain*, an alienation of lands and tenements to any guild, corporation, or fraternity, which might not be done without the king's licence.

† *This charter was confirmed in parliament, 3 Hen. 8.*

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Butler and coroner separate. rity to exercise the said office of coroner; he causes the said offices of chief butler and coroner, to be divided, and made two separate and distinct offices—and that no other coroner, but the coroner belonging to the city of *London*, do intermeddle in any respect in the said city.

Hen. 7. Merchandize, foreign, bought, &c. forfeited. *Henry VII. ann. 1.* grants to the city by his charter, that if any strangers to the city of *London*, buy any wares or merchandize of any person, being likewise a stranger to the said city, that all merchandizes so bought, should be forfeited, &c. That any stranger, &c. may buy any quantities of commodities in gross, but not to sell again. He likewise confirms to them the office of gauger within the said city, to hold the same with all fees, profits, &c.

Gauger.

Hen. 8. ch. 1. No inquisitions to be at *St. Martin's*. *Henry VII. in his first charter, ann. 10.* grants, that the inquisitions, &c. formerly taken in *St. Martin's le Grand*, should be from henceforth taken in *London*, except only inquisitions taken in eyre in the *Tower of London*, and for the gaol delivery of *Newgate*.

Hen. 8. ch. 1. Keepers of the great beam and common balance. By his second charter, *ann. 22.* he cancels Sir *William Sidney's* patent, relating to the great beam and common balance, belonging to the city of *London*, and declares, that the keeping the said beam and weights belong to the city, by prescription; and others, that the weights and beams for weighing merchants commodities, be, and ought to be in the hands of persons chosen by the mayor and commonalty; and that they shall have the tronage, (that is, the weighing of wax, lead, pepper, allom, &c.) and be keepers of the great beam, and common balance, as granted by *Henry IV.*

Tronage.

In the same charter, the mayor, commonalty, and citizens, are ordained keepers of the beams, weights, &c. with power and authority to make and assign clerks, porters, &c. of the said great beam and balance, and of the iron beam, and of the

the beam of the *still yard* and weights aforesaid; with all the fees and profits thereto belonging, without account, &c.

Edward VI. ann. 4. in his charter, grants to *Edw. 6:* the mayor of London, &c. several messuages in *Southwark* *Southwark*, with their appurtenances, except the *Park, &c.* capital messuage, called *Southwark place, the park*, and *Antelope*, with all the garden ground, buildings, &c. thereto belonging.

He further grants the manor of *Southwark*, *Manor of Southwark*, belonging to the late monastery of *Bermondsey*, *Southwark*, with all appurtenances; and also the manor and *and monastery of Bermondsey, &c.* borough of *Southwark*, late parcel of the possession of the archbishop of *Canterbury*, with several other lands, tenements, &c. in as full and large a manner as the duke of *Suffolk*, or any abbot of *Bermondsey*, or archbishop of *Canterbury* did enjoy the same; and in as full and large a manner as the same, did or ought to have come to his father, *Henry VIII. &c.*

He likewise grants in consideration of five hundred marks paid into the treasury, &c. several *Waifs, est-* other things to the mayor, &c. *rays, deco-* *viz. waifs, estrays, dands, &c.* treasure found, goods of traitors, felons, fugitives, out-laws, and deodands; and also all escheats and forfeitures formerly belonging to the king and his heirs, &c.

Also, that the mayor, and commonalty, should *Affize of* have the affize of bread, wine, beer, and ale, *bread, &c.* &c. and whatsoever did belong to the clerk of the market; as likewise the execution and return of writs, warrants, &c.

He farther grants them a fair for three days *Southwark* every year, in *Southwark*, with a court of *py-fair.* *powder*, with all liberties and free custom to such a court appertaining.

He likewise grants them a view of frank- *Frank-* pledge, together with all summons, attachments, *pledge, sum-* arrests, issues, profits, &c. which therefore may, *mons, at-* *Or arrests, &c.*

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or ought, to belong to the king, his heirs, and successors, &c.

Felons sent to Newgate. He also grants them liberty to apprehend felons, thieves, and other malefactors within the said town, borough, &c. and to carry them to *Newgate*, there to be kept till they shall be delivered by due course of law: and also grants, that the mayor, commonalty, &c. have the same liberties in the borough and town aforesaid, as the king should have, if the same were in his hands.

Jury of Southwark appearing in London. He likewise grants, that they should hold pleas in *London* for matters in *Southwark*; and that the jurors in *Southwark*, making default before the mayor and sheriffs of *London*, should forfeit their issues, and suffer such amercements as the men-impannelled and summoned in the said city of *London*, are liable to.

Pleas and actions arising in Southwark. He further grants, that the mayor and commonalty, &c. have cognizance of all manner of pleas, actions, complaints, and suits personal arising in *Southwark*; and also grants that the mayor, &c. may choose two coroners for *Southwark*, and that no coroner belonging to the king, have any power to intermeddle there.

Escheator. He likewise grants, that the mayor of *London* be † escheator in *Southwark*, and that no other intermeddle: and that the said mayor be clerk of the market in *Southwark*, and that the king's clerk of the market do not intermeddle, &c.

Clerk of the market. He further grants them franchises, † stallages, † pickages, &c. which any archbishop of *Canterbury*, or the said duke of *Suffolk*, &c. did en-

† *Escheator*, an officer who looked after the lands or profits that fell to the king within his manor, either by forfeiture or death.

† *Stallage*, a payment for erecting or having a stall in a fair or market; as *Picage* is a payment for breaking the ground in order to erect such hall, &c.

joy; and that none of the king's officers or ministers do intermeddle in any respect in the said town and borough of *Southwark*.

He likewise grants, that all and singular the inhabitants of *Southwark*, be under the magistracy and government of the mayor and officers of *London*, as the citizens and inhabitants of the said city be; and that the said mayor, &c. have the same jurisdiction in *Southwark* as in *London*, &c.

Inhabitants subject to the mayor's government.

He grants also, that the mayor, recorder, and aldermen, that are justices of the peace in *London*, shall be justices of the peace in *Southwark*; and that there be markets in *Southwark*, for four days a week. Provided nevertheless, that this grant doth not prejudice the steward of the king's house, &c.

Mayor and aldermen justices for *Southwark*.

He moreover grants, to save the city harmless against all † corrodies, rates, fees, and annuities, given out, or to be paid out of the premisses, reserving to himself the services in the said charter reserved, and the fee farm of ten pound *per annum*.

King *James I.* in his charter, grants the mayor, &c. to be chief bailiff, and have the conservation of the river of *Thames*, and the extent of his jurisdiction to be westward to *Stanes* bridge, in the county of *Middlesex*, and eastward as far as *Kendal*, alias, *Tandal*, or *Yeen-leet*, with all the fees and profits thereunto belonging.

James 1.
ch. 1.
Bailiff of the river *Thames*.

He likewise grants to the mayor, &c. to have the office of measuring all coals and grain, and of all salt, apples, &c. and to take the fees and profits belonging to the said office, to the sole use of him the said mayor, &c. without any lett

Measurers of coals and grain, &c.

† *Corrody*, an allowance of meat and drink out of a religious or other house, towards maintenance of any person whom the king should appoint, or money paid in lieu thereof.

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or hindrance of the king, or any other person, and to hold the said office without account, and that no other water-bailiff, conservator, or measurer, intermeddle: and the grants of the said officers to remain firm to the mayor, &c. notwithstanding any non-user, or abuser of the same.

James I.
ch. 2.

All liberties
restored.

Precincts
determined.

Duke's-
place, Black-
Friers, White
Friers.

Great and
Little St.
Bartholo-
mew's.
Cold-bar-
bourgh.

King James I. in the preamble of his second charter, makes a full and general confirmation of all former charters granted to the city of *London*, and repeats the several names of the corporations of the city of *London*; and likewise grants them a restitution of all liberties to all intents and purposes, as fully and largely as their ancestors enjoyed them; and although they have not used, or have abused them, nevertheless he grants that they may use them for the time to come.

He grants likewise, that they hold their precincts as they were formerly accustomed, and determines the liberties of the city of *London* to extend and stretch forth likewise to *Dukes place*, *St. Bartholomew's*, *Great and Less*, *Black-Friers*, *White-Friers*, and *Cold-harbourgh*, and the respective inhabitants thereof, to be within the precincts of *London*, with a proviso that the inhabitants of *Black* and *White-Friers*, be exempt from certain taxes, *fifteens*, &c. and that the inhabitants aforesaid be quit from the office of constable, scavenger, &c.

Nevertheless he grants, that the mayor, &c. by their own officers, may levy all such aids, tallages, grants, and contributions, which are not excepted in the said charter; and that the justices of *London* should have jurisdiction in *Black-Friers*, *White-Friers*, *Duke's-place*, *Great and Little St. Bartholomew's*, and *Cold-harbourgh*, with power to take security for the preservation of the peace, and to commit the refusers to prison.

He

He further grants, that the mayor and recorder, Justices of
and such other justices that are customarily jus- Oyer and
tices in the city, be justices of Oyer and Ter- Terminer.
ner, and that the mayor for the time being, and
the recorder, be always of the *quorum*, and that
no other justices do intermeddle in the city and
liberties aforesaid; and that the sheriffs of London
be aiding and assisting to the said justices.

Helikewise grants that all treasures found within Treasure-
the said city, all waifs, estrays, and all goods and thov, waifs,
chattles of felons, fugitives, &c. belong to the said estrays, &c.
city, and that they have these letters patent un-
der the great seal, without any fee or fine in the
banaper, &c.

In his third charter, London is stiled his Royal James 1.
Chamber, and therein is granted, that the city char. 3.
have the measuring of all coals brought to the Coals mea-
city of London, as likewise the weighing of coals, sured.
with all the fees and profits belonging to the
same; and that the said office be executed by
the mayor, or his deputies.

In the same charter, the fees for weighing of eight pence
coals are settled at eight-pence *per tun*, the same *per tun*.
to be to the use of the mayor and commonalty of
the city of London; and withal it is provided,
that no merchant unlade his coals till the mayor No unload-
have notice, to the intent, that having a true ing till no-
estimate of the quantity of coals brought to the tice.
city of London, he may be able to satisfy the
king in that particular, when demanded.

In the same charter all forestalling and regrat-
ing of coals is prohibited, all selling of coals by
retail in lighters forbidden, and no markets for
the future to be in lighters. And further he
grants, that if, after the sealing of these letters
patent, any defect should appear, others should
be granted more advantageous and effectual.

King Charles 1. begins his first charter with an Charles 1.
acknowledgement of the good services of the city chart. 1.
of London, and confirms all their former letters pa-
tent,

Liberties re-
stored.

tent, except those in the same charter excepted. He likewise repeats the several names of the corporations of *London*, and makes a restitution of all their liberties, except some few that are therein excepted.

Scil of the
streets and
Thames.

In the same charter a recital is made of the charter of the twenty-sixth of *October*, in the twenty-third year of *Henry VI.* and likewise the soil, &c. of the streets, and of the *Thames*, is granted to the city; and then all other charters of the said king *Henry VI.* are made void, and some doubts are mentioned concerning the validity of the charter granted to the city of *London*, the twentieth of *Henry VII.* after which the said king *Charles* grants as follows.

Charters of
Hen. 6. made
void.

Mayor, re-
corder, and
aldermen,
made jus-
tices,

That the mayor, recorder, and aldermen, belonging to the city of *London*, be justices of the peace; and to commit those to the prison of *Newgate*, &c. who shall refuse to find securities for the preservation of the peace, as aforesaid; and to do and execute all such things which justices and keepers of the peace in any county of *England* do, or are wont to do.

Sessions to
inquire of
weights and
measures,
&c.

He likewise grants, that four of the said justices, the mayor, or recorder to be always one, may hold a sessions, to enquire into several offences, *viz.* into weights and measures, and selling victuals contrary to the statutes, &c. to receive and inspect into indictments taken before them, to make and continue process, and punish offenders according to the laws of the kingdom, and the custom of the city; and also grants them power to execute the laws as fully and largely as any other justices of the peace in any other county; and that the sheriffs, &c. attend, aid and assist the said justices when desired.

Indict-
ments, pro-
cess, &c.

Forfeitures
of recogni-
zances, &c.
granted.

He also grants them the forfeiture of recognizances, particularly those relating to bastard-children, inmates, and alehouses; with recognizances for appearances at the sessions of gaol-delivery,

delivery, fines and issues of jurors within the city of *London*, excepting only *Royal Issues*, &c.

He likewise grants them all recognizances ^{Fines, amer-} taken, or to be taken, for the security of the ^{ciaments,} peace or good behaviour, with all recognizances ^{and penal-} taken in the court for the river of *Thames*, and all things thereunto appertaining; as likewise all fines, amerciaments and penalties, adjudged by the mayor, &c. relating or any ways belonging to his said courts, as conservator of the river *Thames*; and also all fines, &c. imposed by commissioners of sewers, the same to be holden to the mayor, &c. without account.

He likewise grants to the mayor, commonalty, *Moorfields* and citizens of *London*, and their successors, the granted. fields commonly known by the name of *Moorfields*, both outward and inward, and likewise the field commonly called *West-Smithfield*, with *West Smith-* liberty to hold fairs and markets in the said field. fields, with all tolls, profits, &c. thereunto belonging: reserving the streets, waste ground, ^{Streets,} common soil, ^{to waste, com-} within the city liberties; to hold the same in free burgage, and not in ^{mon soil.} capite, with pardon and remittance of all issues relating to the said premises, without any writ of *ad quod damnum*; and also pardon of all intrusions, except such which relate to churches and church-walls.

He also grants the office of garbling spices. ^{Spices garb-} &c. to the mayor and citizens of *London*. ^{The led.} The said mayor, &c. to hold and enjoy the said office, with all the fees, profits, &c. without rendering any account to the king, his heirs, or successors, the garbling of tobacco only ^{Except ta-} excepted. ^{bacop.}

He likewise grants the mayor, commonalty, ^{Office of} and citizens, the office of gauging, with all the ^{gauging.} fees, profits, and emoluments, lawfully belonging to the said office, the same to be executed by them or their deputy, without account, and the

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fees, &c. to be appointed and allowed by the lords, chancellor, treasurer, and president of the council, and the two chief-justices of the *King's Bench* and *Common-pleas*.

Keeper of
the great ba-
lance.

He also grants to the mayor, commonalty, and citizens, the office of keeper of the great balance or weight, within the city of *London*, for weighing all merchandizes of *Aver-du-poit*, and also all other weights for weighing any sort of wares or merchandizes within the said city, with all the fees and profits, &c. thereunto belonging, &c.

Outroper's
office.

He also grants the mayor, commonalty, &c. the office of outroper, or common cryer, with liberty to exercise the same by themselves, or deputy. The said deputy to be chosen by the mayor, commonalty, and citizens in common council, with power to take the fees expressed in a schedule annexed to his said charter, and that no other presume to sell any goods by outcries within the city and liberties of *London*, under the pain of the royal displeasure.

Freeman's
widows to
use arts, &c.

He likewise grants, that freemen's widows should use their husbands arts and manual occupations, so long as they continue widows, notwithstanding the statute made in the fifth year of the reign of queen *Elizabeth*, or any other statute to the contrary.

No market
within seven
miles.

He likewise, for the benefit of the city of *London*, grants, that there be no market within seven miles of the said city; and further grants, that according to the ancient custom of the said city, the mayor and aldermen, &c. should re-

Customs re-
corded, Viva
Vocce.

cord their customs by the mouth of their recorder, touching any plea, deed, cause, or business, relating to the city of *London*.

Treasure-
trove, waifs,
estrays, &c.

He further grants to the said mayor, &c. all treasure found in the city of *London*, and liberty thereof, with all *waived* or *strayed* goods and chattles of all felons, fugitives, &c. He likewise grants, that the mayor of *London*, for the time being,

Being, should nominate two aldermen for justices of the peace, the one to act, and be inserted in all commissions in *Middlesex*, the other in *Surry*. Two aldermen, one a justice for *Middlesex*, the other for *Surry*.

He likewise grants, touching freemen, that the sons of freemen and others should be obliged to take up their freedom, &c. and that no person should transport any goods from the port of *London*, or use any merchandize within ten miles distance of any port thereof, without becoming a freeman, and producing a testimonial under the hands of the chamberlain, to prove the same; and that no merchant, freeman of *London*, from henceforth, take any person to serve after the manner of an apprentice, for any less term than Freedoms to be taken up.
Merchant's apprentices. seven years.

He likewise grants the city a Court of Conscience, or requests, for the trying all small debts under forty shillings, the said court to be kept in the *Guild-hall*, and the proceedings to be by way of plaint and summons, and the officers of the said court to be in the choice of the mayor, commonalty, &c. and to take such fees which are expressed in the schedule annexed to his letters patent. Court of Conscience.

He also grants to the mayor, commonalty, and citizens, the office of brokers of pawns, &c. and that the fees be the same as in the schedule annexed: and that the citizens, for the better finding out their respective dwellings, might hang out signs. And likewise grants to the said mayor, commonalty, &c. the keeping of the hospital called *Bethlehem*, with manors, lands, &c. belonging to the same; and the better to enable them to support the burthen of the poor in the house called, the house of the poor in *West-Smithfield*, he grants that the mayor, &c. should be governor of the said hospital of *Bethlehem*, and that the revenues, &c. be applied to the uses before-mentioned. Brokers of pawn.
Signs to be hung out.
Keepers of *Bethlehem* Hospital.

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Leases of
hospital-
lands.

He also declares, that no lease of any hospital lands should be let for any term of years, exceeding one and twenty. He furthermore grants to the mayor and commonalty, &c. liberty to purchase five acres of land in *St. Giles's in the Fields*, notwithstanding the statute of mortmain, &c. with liberty to build on the said five acres without any royal licence; and withal grants, that these letters patent, and the enrolment, should be good and firm, and effectual in law against him and his successors, without any other toleration, or confirmation, &c. and that the said letters patent should be sealed by the great seal of *England*, without paying or making any fine or fee in the * hamper.

King *Charles I.* in another charter, in consideration of four thousand two hundred pounds, creates the several offices of package, portage, or balliage, and after grants the same to the mayor, commonalty, &c. of *London*, with all the fees and profits expressed in a schedule annexed to the said charter; and also the office or employment of scavage, with all the fees and profits expressed in the table, &c. paying yearly to the king and his successors, three pounds six shillings and eight pence. He likewise impowers the mayor, &c. to administer the oath in the case of concealed goods, &c.

All which charters were confirmed by king *Charles II.* at *Westminster*, the twenty-fourth day of *June*, in the fifteenth year of his reign.

* Or hanaper, an office in chancery, wherein are paid all monies due to the king for the seal of charters, patents, &c. and to the officers for enrolling the same.

C H A P. II.

Of the Magistrates and Officers of the City of London, and their respective Creations, Elections, Rights, Duties, and Authorities.

S E C T. I.

Of the Mayor.

WHAT manner of government *London Maitl.* vol. 2. had, immediately after its foundation by p. 1191. the Romans, is unknown, because of the great uncertainty of its ancient state.

However, as bishop *Stillingfleet* is of opinion, that *London* originally was a mixed colony, which, by the great confluence of people, was, in the time of *Tacitus*, become a noble emporium; we may infer, that *London* then had a civil, as well as military government; which must have continued till the declension of the Roman power in *Britain*.

The Romans having abandoned this island, the Saxons, arriving soon after, possessed themselves of this city; but what sort of government they exercised therein, before its reduction by the Danes, is also unknown. And though *London*, in the year 851, was brought under the Danish yoke, yet it does not appear that they made any other use thereof, than as a place of security, which they could upon all emergencies fly to, as a sure place of defence; but being dislodged by king *Alfred* in the year 886, he no sooner became master of the same, than he repaired the walls, and rebuilt the city in a more magnificent and beautiful manner than formerly.

Alfred had no sooner restored *London* to its former splendor, than he committed the govern-

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ment thereof to *Ethelred*, duke of *Mercia*, who had married *Elfleda*, his daughter ; but as to the government exercised therein by the said duke, we are at a great loss, for we have not the least account transmitted to us, whereby we can form an idea of the government of this city, before the *Norman* conquest, other than a few scraps taken from a charter addressed to the portgrave, and said to be granted by *Edward the Confessor* to the city of *London*, whereby all her antient customs and usages were confirmed ; and by an additional grant, every servant or vassal, repairing to *London*, and residing therein during a year and a day, without being claimed by his lord, or master, became in all respects a freeman of this city, as if he had been born and bred therein.

By this charter, and by that of *William the Conqueror*, it appears, that the chief officer of the city before the *Norman* conquest, was denominated *portreue*, or *portgrave*. Various are the derivations of this word, some taking *port* to signify a town, whereas in truth it means a haven or harbour ; and *grave*, an intendant, governor, or collector, is derived from the *Saxon grau*, that is gray or hoary-head ; such were, by the antient *Saxons*, for their age and experience, chosen judges, as the *Roman Senators*, and aldermen of *England* were on the same account : but this appellation at last becoming general, it was indifferently applied to a judge, governor, magistrate, warden, keeper, and receiver ; as is manifest by the following antient *German* titles, *viz.* margrave, a warden of the marches ; landgrave, an itinerant judge ; burgrave, a governor, or chief magistrate of a city ; and portgrave, a collector, or general receiver of the public duties of a commercial port : such a one was the portgrave of *London* under the *Saxons*, who, I imagine,

imagine, was likewise at the head of the civil government of the city.

In the survey, commonly called *Doomsday-Book*, made in the twentieth of *William the Conqueror*, anno 1086. it appears, that many cities and boroughs in *England* were held of the *Saxon* kings, nobility and clergy, in domain or vassalage; and whose several properties being cantoned out into fokes and liberties in the said cities and boroughs, it seems they at first gave rise to the appellation of *Ward*, to each of the said divisions; which is not only in some measure corroborated by the wards of *Baynard's Castle*, *Coleman street*, and *Portoken*, but likewise by several wards of *London* being antiently alienable. That the burgesses, or inhabitants of this city, were then under some such hardships, doth in some measure appear, by the charter, or rather protection of *William the Conqueror*, granted to the citizens of *London*, in the *Saxon* language, as above specified.

In the reign of *Henry I.* an additional magistrate was added to the government of this city, by the name of provost; but what his office was, is not mentioned, though probably it was either that of sheriff or bailiff.

Richard I. in the first of his reign, in consideration of a great sum of money given to him by the *Londoners* towards his expedition to the *Holy land*, granted them a privilege of choosing annually, from among themselves, two bailiffs, or sheriffs, for their better government.

By the third charter of king *John*, anno 1199, the citizens of *London* were reimpowered to choose their own sheriffs, by virtue of which grant of confirmation, and the pressing instances of the commonalty, thirty-five of the most prudent and substantial part of their body were chosen; but whether by the bailiffs and aldermen, or folk-mote, is not mentioned, no more than the office

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they were to serve ; therefore it is probable they were only selected out of the commonalty, as a standing body out of which to elect, the city magistrates ; for it appears, that both bailiffs and sheriffs were afterwards annually elected out of the said number, as were at first the mayors, when in the election of the citizens.

The chief officer of this city under the *Saxons* (as already hinted) was the portgrave ; but the *Normans* having by conquest reduced the *English*, they were in all things forced to submit to the conqueror ; wherefore the appellation of *portgrave* was obliged to make way for the exotic one of *Mayor* ; from the *French* word *Meire* (a *Latin* derivative from *Major*) wherewith the chief magistrate of the city of *Roan*, the capital of the province of *Normandy*, was then dignified.

The first mention we find of the appellation of mayor, is in the reign of *Henry II.* which must have been towards the close of it, seeing that, but four years before, a portgrave had the government of this city.

The citizens of *London*, weary under the government of a foreigner, humbly applied to king *John*, in the year 1215, for a power to choose their own mayor ; which privilege he was pleased to grant, by an additional charter, whereby they were impowered annually to elect from among themselves their chief magistrates.

Though *John*, by his charter, had indulged the citizens of *London* with the choice of their mayor, yet by the same power they were obliged to present him to the king for his approbation, or in his absence to his justiciary ; this custom still remaining, he is yearly presented to the lord chancellor ; without which sanction the person so chosen could no more act as lord-mayor of this city, than a mere stranger.

The

The citizens of *London* having by divers royal grants obtained the privilege of choosing their own magistrates, they were elected by the court of aldermen, and a number of commons summoned by them out of each of the wards; but the numbers being occasionally varied, at the discretion of the aldermen, gave great uneasiness to the commonalty; for the removing of which, the method of election was altered by an act of common council, *anno* 1476, whereby the present manner of electing by the liverymen of the several companies was established: by virtue whereof the lord-mayor, or chief magistrate of the city, is annually chosen on *Michaelmas day*; for which purpose, the liverymen assemble in *Guild-hall* on the said day; where, by holding up of hands, they choose two of the senior aldermen below the chair, who being returned to the court of lord-mayor and aldermen, the senior aldermen is commonly declared lord-mayor elect.

The election being over, the lord-mayor elect, accompanied by the recorder and divers aldermen, is soon after presented to the lord chancellor (as his majesty's representative) for his approbation; and on the ninth of *November* following, is sworn into the office of mayor, at *Guild-hall*, and the day after, before the barons of the *Exchequer* at *Westminster*; in the morning of the said day, the aldermen and sheriffs repair to the lord-mayor's residence, whence they attend him to *Guild-hall*, in a procession at present formed by coaches, which about noon proceed to the river-side, where, at the *Three Granes Stairs*, the lord-mayor, aldermen, recorder, and sheriffs, go on board the city-barge, attended by several corporations of the citizens, in their formalities, and magnificent barges, pompously adorned with a great number and variety of flags and pendants; and thence proceeding to *Westminster*, form such an august and

majestic

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majestic procession, as probably is now here-to-be paralleled, except at *Venice*.

The ceremony being over at *Westminster*, the dazzling navy returns to the city, where, at *Black-Friars Stairs*, most of the companies come on shore, the livery whereof, by the make and sumptuousness of their robes, appear like so many *Senators*; and being severally preceded by their colours, flags, and bands of music in procession to their proper stands, they continue seated in their stately robes amidst the numerous concerts of music, and incessant acclamations of the populace, till their chief magistrate, the lord-mayor be past.

This great and powerful officer being landed at *Black Friars Stairs*, he is preceded by the artillery company of citizens, a military body, which for men, and dexterity of exercise, is scarce to be excelled by the best veterans; and in regard to their sumptuous accoutrements, it is not to be questioned, but they excel all other bodies of infantry whatsoever.

This company is followed by that whereof the lord-mayor is free, which is attended by the city music, and followed by the lord-mayor's officers and domestics, who immediately precede his lordship in his coach of state, who is followed by the aldermen, recorder, sheriffs chamberlain, common serjeant, town clerk, &c. in their several coaches and rich equipages, amidst the acclamations of an infinite number of people, and the streets through which the pompous procession passeth are adorned with the most pompous decorations. This solemn and most stately shew has been often embellished with a great variety of magnificent pageants, which, together with the magnificence and pomp of all its parts, may justly be said to vie with the coronations of some princes. The procession being over, the several corpq-

corporations repair to their stately halls, where they are sumptuously regaled with elegant entertainments.

What has been said upon the present grandeur at the installation of this great magistrate, is not to be admired at, especially if we consider, the city whereof he is head and governor, immediately under the king, is the most populous and opulent of all others.

The lord-mayor, upon all publick occasions, is clothed, according to the season, either in scarlet, or purple robes richly furred, with a velvet hood and golden chain, or collar of S S. with a rich jewel appendant ; and when abroad, he is attended by a great number of his officers, before and on each side ; and when on foot, his train is supported by a page, and the city sword and mace carried before him, attended by the sheriffs.

The officers belonging to the lord-mayor for the support of his dignity, are the sword-bearer, who for the expence of his table, has a very considerable annual allowance ; the common-hunt, common crier, and water bailiff, who have all great salaries, or perquisites, with each the title of esquire ; together with the three serjeant carvers, three serjeants of the chamber, a serjeant of the channel, two yeomen of the chamber, four yeomen of the water side, a yeoman of the channel, an under-water bailiff, four young men-waiters, three meal-weighers, two yeomen of the wood-wharf, and the foreign taker. The state and grandeur of this magistrate, in all respects duly considered, will be found not to come far short of that of some viceroys.

S E C T. II.

Of the Aldermen.

THE *Saxon* appellation of calderman, alderman, or oldman, is of the same signification as the *Latin* appellative *Senex*, whence is derived *Senators*. The epithet of calderman, among the ancient *Saxons*, appears to have been a title of the greatest honour, as will appear by the following monumental inscription, in the abbey of *Ramsay*.

Spelm. Gloss. Hic requiescit D. *Alwinus*, inclityi regis *Eadgari* cognatus, totius *Anglie* aldermannus, et hujus Sacri Cœnobii miraculosus fundator.

As the epithet of alderman was the same as that of earl, the said *Alwin* must have been dignified with the title of *Earl of all England*; which shews the city of *London* must have been in very great repute, when the noble appellation of aldermen was conferred upon her magistrates. This probably gave rise to the honourable title of *Barons*, whereby the aldermen and commonalty of *London* were long after denominated.

Brad. Hist. Whether the city of *London* at first, was divided into wards by king *Alfred*, (after his rebuilding the same, as already mentioned) or by arbitrary lords, whose demains in the city were held in vassalage by the citizens, or by others, is unknown. However, the second seems the more probable, seeing that, during the *Saxon* government, most of the cities and towns in this kingdom were held in demain or vassalage; which is strongly corroborated by the wards of this city being antiently hereditary, and alienable at the will of the aldermen.

Mad. firm. Burgh. And it is observable, that the wards of aldermanries of this city were denominated from the aldermen,

aldermen, and anciently changed their names as often as their masters; and that the division of the city into wards or aldermanries, appears to be of great antiquity; for it is manifest that *London Firm Ste-* had both wards and aldermen in the reign of *phen's de-* king *Richard I.* which is above five hundred and *scription of* fifty years ago. *London.*

The first number of wards in this city was *Maitl. 1199-* twenty-four; but in the year 1394, *Farringdon-* ward being divided by act of parliament, the outward division was erected into a separate ward, which made up the present number of twenty-five, for that called the *Bridge-ward without* being only nominal, it is well adapted to the senior alderman, who by his great age is rendered incapable of under going much fatigue; but in case of non-acceptance, the court of aldermen choose another of their brethren to supply the vacancy.

In the seventeenth of *Richard II. anno 1394.* Act of parli- it was by parliament enacted, that the aldermen *ament,* of the city of *London* should not from thence- *17 Rich. 21* forth be elected annually, but continue in their several offices during life, or good behaviour.

The aldermen of *London* having anciently be- *Act common* come so by *purchase*, occasioned great jealousies *council.* and heart-burnings among the commonalty; for the allaying of which, and preventing the like for the future, it was, in the year 1402, by the common council enacted, that they should be elective; the manner of which election has several times varied: but in the year 1714, by the common council of the city it was enacted, that from thenceforth, in all elections of aldermen, there shall be chosen only one citizen by the inhabitants of every ward destitute of an alderman, and the person so elected to be returned by the lord-mayor (or other returning officer, duly qualified to hold a court of wardmote) to the court of lord-mayor and aldermen, by whom the person

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person so returned is to be admitted, and sworn into the office of alderman.

The different factions in the city continuing vigorously to oppose each other in the choice of their representatives to serve in parliament, lord-mayor, aldermen, sheriffs, common councilmen, chamberlain, town clerks, &c. application was made to parliament to prevent such disputes for the future, by reducing the number of electors, which was thought would in a great measure prevent violent contests on all such occasions. See Chap. 6. title *Election*.

Maitl. 1202. The aldermen are the second constituent part of the city legislature, and all of them, who have passed the chair, and three under it, are by charter perpetual justices of the peace within the city, and by the same power, they are by virtue of their office exempt from serving on inquests, juries, &c. as they are likewise without the city from parish offices, &c.

S E C T III.

Of the Sheriffs.

Maitl. 1202. **RICHARD** I. having changed the names of two of the magistrates of this city, from those mentioned in the charter of *Henry* I. his great grandfather, viz. from the appellation of sheriffs to that of bailiffs; however, it was only a change of name, and not of office: for as the *Norman* appellative of bailiff, implies an intend-ant, collector, or petty magistrate; so doth the *Saxon* scirgrave, or sheriff, import the same, *scire* signifying a division, and *grave* (as already mentioned) a judge, overseer, or collector; which name of sheriff, was probably at first brought

of London, &c.

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brought into use in this city, upon *Henry I.*'s granting the sheriffwick of *Middlesex* to the citizens of *London*.

The appellation of bailiff proving of no long duration, the more ancient one of sheriff was restored to those who executed that office, and who at present are chosen by the livery-men of the several companies, on *Midsummer day*, and *Camd. Brit.* whose office, according to our great antiquary, *in Com.* is to collect the publick revenues within their *Mid.* several jurisdictions, to gather into the *Exchequer* all fines, to serve the king's writs of process, and by the *posse Comitatus* to compel headstrong and obstinate men to submit to the decisions of the law, to attend the judges and execute their orders, to impanel juries, to bring in their verdicts to the judges, and to take care that all condemned criminals be duly executed.

S E C T. IV.

Of the Recorder.

BESIDES the mayor, aldermen, and sheriffs, there are several other eminent officers belonging to the city.

There is a recorder of the city of *London*, a *Maitl.* 1205; grave and learned lawyer, skilful in the customs of the city: also he is to be a chief assistant to the lord-mayors, for their better direction in matters of justice and law. He takes place in councils and in courts, before any man that hath not been mayor, and learnedly delivers the sentences of the whole court.

The qualifications of the recorder of the city are thus set down in one of the books of the chamber: that "he shall be, and is wont to be

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be, one of the most skilful and virtuous apprentices of the law of the whole kingdom : whose office is always to sit on the right hand of the mayor, in recording pleas, and passing judgments ; and by whom records and processes, had before the lord-mayor and aldermen at *Great St. Martin's*, ought to be recorded by word of mouth before the judges assigned there to correct errors. The mayor and aldermen have therefore used commonly to set forth all other businesses, touching the city, before the king and his council, as also in certain of the king's courts, by Mr. Recorder, as a chief man, endued with wisdom, and eminent for eloquence."

The fee of the recorder was sometimes more, and sometimes less, according to time and merit, as appears in the fourth book of *Liber Albus*. Afterward, the recorder's fee was settled at an hundred marks ; and he was to have of the chamber such vesture (*Linatam vel penulatam*) lined or faced, and as often as the mayor and aldermen take, every year. And his clerk, such as the serjeants of the chamber. The recorder, and his clerk, are wont to sit at the mayor's table.

What the recorder's office was long ago demanded to be, to wit, in the year 1304, may be worthy to be read out of a record, viz. *Die Luna*, &c. On Monday, after the feast of the conversion of St. Paul, in the thirty-second year of king Edward, before the lords, *John le Bland*, mayor, *John de Burresforch*, sheriff, *William de Beton*, *Walter de Fynchingfield*, *William de Leyre*, *Thomas Romeyn*, *Adam de Felham*, *John of Canterbury*, *Simon de Paris*, *John de Dunstable*, *Richard de Goucestre*, *Henry de Loucestre*, *Adam de Rokeste*, &c. aldermen, meeting together, *John de Wengrave*, alderman and recorder, was sworn, well and faithfully to render all the judgments of the hustings, after the mayor and aldermen should meet concerning their pleas, and agreed together ;

together; and also all other judgments touching the city of *London*, &c. and that he shall do justice as well to poor as rich. And that all the pleas of the *Hustings*, presently after the *Hustings* is finished, he shall oversee, order and cause to be enrolled, according to the things pleaded, &c. and that he shall come prepared to dispatch the business of the city, &c. when he shall be lawfully warned by the mayor and bailiffs. For which labour, the above-said mayor and aldermen have yielded to give the aforesaid *John* ten pounds sterling by the year, out of their chamber, and twenty pence of each charter written, and each testament enrolled in the said *Hustings*, &c.

S E C T. V.

Of the Chamberlain of London; the Common Serjeant; the Townclerk, or Common-clerk; the Coroner; the City Remembrancer; the Sword-bearer; the Common-Hunt; the Common-crier; the Water-bailiff; other Officers of the City; Lord-Mayor's Officers; and Sheriffs' Officers.

HE is an officer of great repute and trust; Chamberlain, and though annually chosen on *Midsummer* day, yet not displaced, but continues during life, if no great crimes are made out against him.

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him. He had the keeping of the monies, lands and goods of the city orphans, or took good security for the payment thereof when the parties came to age. And so that end he was deemed in the law a sole corporation, to him and his successors, for orphans, and therefore a bond, or a recognizance made to him and his successors, was recoverable by his successors. 'This officer hath a court peculiarly belonging to him, which will be spoken of hereafter. His office may be termed a publick treasury, collecting the customs, monies, and yearly revenues, and all other payments belonging to the corporation of the city.

Common-
serjeant.

He is to attend the lord-mayor and court of aldermen on court days, and to be in council with them, on all occasions, within and without the precincts or liberties of the city. He was to take care of orphans estates, either by taking account of them, or to sign their indentures, before their passing the lord-mayor and court of aldermen. And likewise he was to let, set and manage the orphans' estates, according to his judgment, to their best advantage.

Town-
clerk,

He keeps the original charters of the city, the books, rolls, and other records, wherein are registered the acts and proceedings of the city; so that he may not be improperly termed the city register: he is to attend the lord-mayor and aldermen at their courts.

The town-clerk and common-serjeant, take place according to their seniority. The fees of the chamberlain, common-serjeant, and common-clerk, or town-clerk, were antiently ten pounds *per annum*,

Coroner.

Called so from *Corona*, i. e. a *Crown*, because he deals principally with the crown, or in matters appertaining to the imperial crown of *England*. As to the antiquity of this office, there were coroners in the time of king *Alfred*, as appears

pears by the book, intitled, the *Mirror*. The lord mayor for the time being, is coroner, but hath his deputy for the management thereof. In antient time, this office was of such great esteem, that none could execute it under the degree of a knight. As the sheriff may inquire of all felonies, so the coroner is to enquire of all sudden deaths: and to that end he impanels a jury, takes evidence upon oath, and gives the charge to the jury.

In former times this officer was nominated and appointed by the king. In 51 *Edward III.* the citizens prayed, that they might place and displace a coroner among themselves, answering unto the king what belongs thereto. It was answered the king will not depart with his antient right.

Two judges of the sheriff's court; four common pleaders; comptroller of the chamber; secondary of *Wood-street Compter*; secondary of the *Poultry Compter*.

This officer is to attend the lord-mayor on Remembrance days, his business being to put his lordship in mind of the select days he is to go abroad with the aldermen, &c, he is to attend daily at the parliament house, during the sessions, and to report to the lord-mayor their transactions.

A register of the orphans' fund; a solicitor; eight attorneys in the sheriffs court; two bridge-masters; a hall-keeper.

There are also officers peculiarly belonging to the lord mayor's house. The first are, the four esquires of the lord-mayor's house.

This officer is to attend the lord-mayor at his going abroad, and to carry the sword before him, being the emblem of justice. He hath his table at the lord-mayor's: for the support of which, there is one thousand pound a year allowed. His dwelling, allowed him by the city, is at *Justice-hall* in the *Old Bailey*.

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The sword-bearer's place is honourable; in as much as the sword is needful to be born before head officers of burroughs, or other corporation towns, to represent the state and princely office of the king's most excellent majesty, the chief governor. To the right of bearing which sword, in the chamber of *London*, this observation is to be made, according to an ancient writer of armoury: "that the bearer must carry it upright, the hilts being holden under his bulk, and the blade directly up the midst of his breast, and so forth between the sword-bearer's brows. This, in distinction from bearing the sword in any town for a duke, or an earl, or a baron. If a duke, the blade thereof must lean from the head between the neck and the right shoulder. And for an earl, the bearer must carry the same between the point of the shoulder and the elbow: and so there is another different bearing of the sword for a baron."

Common-
hunt.

The chief business of this officer is to take care of the pack of hounds belonging to the mayor and citizens, and to attend them in hunting, when they please. This officer's house, allowed him, is in *Finbury-Fields*. He has a yearly allowance besides perquisites. He is to attend the lord-mayor on set days.

Common-
crier.

It belongs to him and the serjeant at arms, to summon all executors and administrators of freemen to appear, and to bring in inventories of the personal estates of freemen, within two months after their decease: and he is to have notice of the appraisements. He is also to attend the lord-mayor on set days, and at the courts held weekly by the mayor and aldermen. He has his dwelling allowed him in *Aldersgate*.

Water-bailiff.

This officer is to look after the preservation of the river *Thames*, against all encroachments; and to look after the fishermen for the preservation of the young fry, to prevent the destroying them

them by unlawful nets. For that end there are juries for each county, that hath any part of it lying on the sides or shores of the said river. Which juries, summoned by the water-bailiff at certain times, do make inquiry of all offences relating to the river and the fish; and make their presentments accordingly. He is also bound to attend the lord-mayor on set days in the week: and has his house in *Cripplegate*.

There are also three serjeant-carvers; three serjeants of the chamber; a serjeant of the channel; four yeomen of the water side; an under-water-bailiff; two yeomen of the chamber; two meal weighers; two yeomen of the woodwharfs; a foreign taker; city marshals. There are besides these, seven gentlemen's men; as,

The sword bearer's man, the common hunt's two men, the common-crier's man, and the carvers men.

Nine of the foregoing officers have liveries of the lord-mayor, *viz*, the sword-bearer and his man; the three carvers; and the four yeomen of the water side. All the rest have liveries from the chamber of *London*.

The following officers are likewise belonging to the city; farmer of the markets; auditor; clerk of the chamber; clerk to the commissioners of the sewers; of the court of conscience; beadle of the same court; clerk of the city works; printer to the city; justice of the *Bridge-yard*; clerk comptroller of the *Bridge-house*; steward of the *Borough*; bailiff of the *Borough*. Other officers of the city.

The lord-mayor's officers, and their days of waiting, according to a table that hung up in the ancient council chamber.

Mr. Sword-bearer, to wait daily.

Mr. Common-hunt, to wait *Mondays, Wednesdays, Fridays, and Saturdays*.

Mr. Common-crier, to wait *Tuesdays, Thursdays, Fridays, and Saturdays*.

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The water-bailiff, to wait *Mondays, Tuesdays, Wednesdays, and Thursdays*.

The three serjeant-carvers, to wait weekly, all excuses set apart.

The three serjeants of the chamber, to wait weekly, without any excuse.

The serjeant of the channel, to wait daily.

The two yeomen of the chamber, one of them to wait daily at dinner, to usher the hall.

The four yeomen of the water side, two of them to wait weekly, and not to be absent.

The yeomen of the channel to wait daily.

The under-water bailiff, to wait on holydays and court days, if he goes not up the river.

The six young men, to wait daily.

The three meal weighers, to wait on holydays and court days.

The two yeomen of the wood-wharf, to wait on general days.

The foreign-taker, to wait likewise on general days.

Sheriffs officers.

The sheriffs also of *London*, as the mayor, for the state of the city, had their officers. In the year 1471, they were appointed each of them to have sixteen serjeants, every serjeant to have his yeoman. And six clerks, *viz.* a secondary, a clerk of the papers, and four other clerks; besides the under-sheriff's clerks, their stewards, butlers, porters, and others in household, many.

C H A P. III.

Of the Laws and Customs of London, as the same relate either to the Persons or Estates of the Citizens, viz. of Freemens Wills, Orphans, Apprentices, &c.

S E C T. I.

Of the Customs of London in general.

THE ancient city of *London* being the metropolis, and chief town for trade and commerce within the kingdom, it was necessary that it should have certain customs and privileges for its better government; which though derogatory from the general law of the realm, yet being for the benefit of the citizens, and for the advantage of those who trade to, and therefrom, have not only been allowed good by the judgments in the superior courts, but have also been confirmed by several acts of parliament. *Magna Charta, c. 2.*
8 Co. 127.

If a freeman forestalls fish coming to market within the city, and upon complaint to the court of aldermen, he appears there and confesses the fact, and they order that he shall desist, and he will not promise to obey, &c. they may commit him, until he signifies to the court that he will conform; and this is a good custom. 1 Vent. 115.

Custom to commit for refusing to serve on the livery, is good. 2 Lev. 200. Raym. 447. 1 Mod. 10. 5 Mod. 156, 319.

Custom to fine and imprison for opprobrious words spoke of an alderman, is good. 1 Vent.

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327. 1 *Lev.* 200. But see *Cro. Eliz.* 689. and 2 *Salk* 425, 426. *Farell.* 28.

But a custom to distranchise for contemptuous words spoken of an alderman, is void. 2 *Lev.* 200. 2 *Salk.* 426.

To imprison until he takes the oath of an alderman of *London*, is a good custom. *March* 179.

Custom to imprison for disturbing the election of a warden of a company, and for not promising not to disturb again, doubted whether good or not. *Style* 78.

By the custom of *London*, a freeman or citizen might, even before the statute of wills, devise his lands and tenements, of which he was seized in fee-simple, to whom he pleased, and may at this time devise the same in mortmain, notwithstanding the statute of mortmain, &c. 1 *Rol. Abr.* 556. Several cases to this purpose. *Moor* 136. 8 *Co.* 127. S. P.

By the custom of *London*, no attaint lies for a false verdict given in *London*. 7 *Hen.* 6. 32. b. 1 *Rol. Abr.* 557. S. C.

A citizen of *London*, upon an appeal brought by him, shall not be obliged to wage battle. *Staund. P. C.* 180. 1 *Rol. Abr.* 557. S. C.

It is a good custom in *London*, that the mayor of *London* may take recognizances of any persons, being of full age, or women unmarried, for he is a judge of record, although the debt was contracted out of *London*. *Fitz. Coron.* 411. 1 *Rol. Abr.* 557. and see *Moor* 871. but see *Cro. Eliz.* 186. *Leon.* 130. S. P. *dubitatur.*

It is a good custom in *London*, that they, time out of mind, have had the measuring of coals *infra portum London*, which extends from *Stanes-bridge* to *London-bridge*, and from thence to *GraveSEND*, and from thence to *Yenland* and *Yen-dale*. 1 *Rol. Abr.* 557.

By the custom of *London*, whores are to be carted, and therefore if a person calls a woman whore

whore in *London*, an action on the case lies in respect of the punishment they are subject to by the custom; but the party cannot be proceeded against in the spiritual court for defamation; for that would be punishing him twice for the same offence. 1 *Rol. Abr.* 550.

There is a custom in *London*, that when a chaplain keeps any woman in his chamber suspiciously, a man may come to his chamber with the beadle of the ward, and enter the chamber and search. 2 *Hen. 4.* 12. b. 1 *Rol. Abr.* 557. S. C.

By the custom of *London*, if a man commit a horse to an hostler, and he eat out the price of his head, the hostler may take him as his own, upon the reasonable appraisement of four of his neighbours; which is a custom arising from the abundance of traffick with strangers, who could not be known to charge them with actions. *Moor* 876. 3 *Bul.* 271. *Yelv.* 67. 1 *Rol. rep.* 449.

But if a man leaves several horses with an innkeeper in *London*, and takes them all away except one, the innkeeper cannot retain the horse so left till he is satisfied for the keeping of the other horses, unless there was an agreement to that purpose. 1 *Bulst.* 207.

If *A.* commit the horse of *B.* to an hostler in *London*, and he eat out his head, yet cannot the hostler sell him; for all customs being derogatory to the common law, are to be taken strictly; and there is no custom of *London* that hath gone so far as this case, to authorize one man to sell and convey the property of another. 2 *Rol. Abr.* 85.

It was antiently insisted upon, that by custom all indictments and proceedings for any cause, except felony, should be tried and determined in *London*, and not elsewhere; but it seems to be now admitted, that a *Certiorari* lies to remove any indictment from *London*; but it is said,

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that by the city charters, the tenor of the indictment only shall be removed, and not the indictment itself. *Cro. Car.* 128, *Raym.* 74. 3 *Mod.* 230. *Hard.* 409. 6 *Mod.* 246. and see 5 and 6 *Will.* and *Mary* c. 11. 1 *Kebl.* 252. 1 *Sid.* 155.

It is no good custom in *London*, that if any person dies within any parish in *London*, and is carried out of the parish to be buried in any other parish, if he is buried in the chancel or other-ways, he shall pay so much to the parson of the parish where he died, as he should have paid if he had been buried there in chancel or other-ways, as where he was buried; for this custom is against reason, that he that is not any parishoner, but passing through the parish, lies at an inn for a night, should be forced to be buried there, or to pay as if he had been buried there. *Hobart's Reports* 238. between *Topsal* and *Terrers*.

It is a good custom in *London*, that the mayor of *London*, may take recognizances of any person being of full age, or woman unmarried, for he is a judge of record, and though perhaps the debt grew due out of *London*. *Dubitatur.* 1 *Roll. Abr.* 557. *Cro. Eliz.* 186. pl. 11. S. C. the declaration was, that the mayor had used to take recognizances by custom, of all except infants and feme coverts, unless upon such certain excepted days, and that this recognizance was taken before the mayor there. It was moved in arrest of judgment, 1st. that the custom is unreasonable, viz. to take recognizances of all persons except feme coverts and infants, and doth not except men *non Sanæ memoriæ*; *Sed non allocatur*; for such may acknowledge a recognizance and have no remedy to avoid them, and therefore they are excepted which may. 2dly. That it is not averred that the defendant was not an infant, &c. or that the day upon which it was taken was none of the excepted days; *Sed non allocatur*

locatur; for it shall be intended, if the contrary be not shewn by the defendant; and so the justices said the law is clearly taken at this day, upon the statute of 1 Ric. 3. to plead a feoffment by *cestui que use*. 3dly. That none can take recognizances but justices of record which had authority by patent, &c. As the justices of the benches, and justices of peace by commission, and the mayor is not a judge of record but by custom; *sed non allocatur*; for the custom is good, and the customs of London are confirmed by parliament, and are good though strange, and so it was adjudged in this court between *Malbe* and *Frying*. 4thly. The custom extends as well to recognizances taken of strangers, as citizens, or for matters within the city; and for this cause *Gawdy* held it was not good.

London prescribed, that their guilds and fraternities might make other guilds and fraternities by usage; but judgment was given against them, for none can do it but by charter of the king, making express mention thereof; and where they prescribed to make laws and statutes; *Belk* said, they cannot alter the estate and inheritance, so as to make land descendable to the eldest son, to be divisible between the males; for the king cannot do this by grant without an act of parliament, nor make tenements devisable by his charter, *quod Candish Concessit*. Br. London. pl. 222.

Custom of London to examine causes by the mayor, at the suggestion of the plaintiff or defendant, pending a plaint before the sheriff of London, and upon examination, and satisfaction found to bar the plaintiff, it is a good custom; *contra*, if it be prescribed after judgment given; for it is not reasonable to avoid a judgment by examination. Br. Customs, pl. 60.

By the custom of London, lands and houses there, might be bought and sold by word only, without any deed or enrolment; and this is a good custom, notwithstanding the statute 27 H. 8.

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of inrollments; by the opinion of the justices of both benches. *Dyer* 229 pl. 50.

There is a custom in *London*, that apothecaries who sell unwholsome drugs, shall forfeit a certain penalty; debt was brought in *London* by the chamberlain, against *U.* for this penalty. Upon a habeas corpus, brought by *U.* the court awarded a procedendo, because the plea in *London* is maintainable by the by-laws and customs there. *Mo.* 403. pl. 538.

Error of a judgment in *C. B.* by confession, in an action-debt, brought by the successor of the late chamberlain of *London*; the error assigned was, that the action was brought by the defendant in error, as successor of *B.* chamberlain of *London*, upon a bond made to him *solvendum* to him and his successors, and alleged the custom of *London*, that the chamberlain there had used time out of mind, &c. to take bonds payable to him and his successors, that their successors shall sue these bonds in any court, and that all their customs were confirmed by parliament, 7 *R. 2.* And that the plaintiff had judgment upon this bond; whereas by law a bond, being but a chattle, cannot go to a successor, but in regard it is alleged to be a good corporation for that purpose, the court held the custom to be lawful and reasonable, and shall go to the successor, and not to the executor, and affirmed the judgment. *Cro. Eliz.* 464.

Custom, that if any freeman devised any legacy to an orphan, that the executor should be constrained to find sureties to pay the legacy according to the law; in this case regard ought to be had to assets, and conditions, and the will of the party; *per Cur. Rel. rep.* 316.

A custom for the mayor of *London*, to appoint a place for taverns, &c. and to imprison for erecting one in any place against their wills, is good. *Mar.* 15.

By

By the custom of London, a tenant at will under forty shillings rent, shall not be turned out without a quarter's warning, and if the rent be above forty shillings, he must have half a year's warning. 2 Sid. 20.

On a certiorari, the return was of a custom for the company of Merchant-tailors to choose liverymen, and to commit the refusers, and that the defendant was elected, and without reasonable cause, refused, and therefore they committed him; it was objected, that the custom to commit, is not good, because it does not concern the government of the city, but the state of a company only. 2dly. It does not appear, that he was *habilis* and *idoneus*, and therefore not eligible; *sed non allocatur*, for as to the first, all customs are confirmed by statute: and as to the second, the refusal without reasonable cause, implies *habilis & idoneus*.. 2 Lev. 200.

Upon a habeas corpus and certiorari, the return was a custom, &c. that if any freeman of a city speaks contemptuous words of an alderman, that in such case, the common-serjeant has usually exhibited an information against him before the mayor and court of aldermen, and that if the offender be convicted by verdict or confession, they used to punish him by fine or disfranchisement; that Clerk spoke scandalous words of alderman Lawrence, when he was surveying the measures of coals (*viz.*) that he would undo the city, and that he was a knave; it was objected, that a custom to try a man for words spoken of an alderman, &c. in the court of aldermen, is unreasonable, because he is both judge and party, besides, it does not appear, that Clerk is a freeman; though in the information, which is returned in *hæc verba*, he is said to be a freeman; but that is not sufficient, for it ought to be returned in fact, that he is a freeman. The court would not grant a procedendo without further argument,

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for they said it might be dangerous to put it in the power of the aldermen to disfranchise a freeman for speaking words of an alderman. 2 Lev. 200, 201.

By the custom of *London*, any person above fourteen, and under twenty-one, unmarried, may bind himself apprentice, &c. according to the custom, and the master thereupon shall have *Tale Remedium* against him, as if he were twenty one. In covenant brought on an indenture of such an apprentice, the court held the custom sufficiently alleged to give and make good an action of covenant, that *Tale Remedium* implies it, as well as other things; and though by common law or the statute, his covenant shall not bind him, yet by custom it shall. *Mod.* 271.

Upon a habeas corpus to the mayor, &c. of *London*, a custom was returned to disfranchise, and commit a freeman for speaking opprobrious words of an alderman. The court said they might fine in such a case, but the other custom would not hold, notwithstanding the act of confirmation of their customs, which does not extend to unreasonable customs. *Vent.* 327.

In trespass for taking and breaking so many dozen of spectacles, &c. the defendant pleads that the city of *London* is an antient city, that therein is and hath been an antient custom, that if any make and expose to sale, ill and unserviceable goods, the chief officers of the company have used to seize them, and carry them to the Guild-hall, and impanel a jury, and if they find them ill and unserviceable, to break them, and shew that the plaintiff is one of the company of Spectacle-makers, and that the defendants are master traders, and chief officers of the company; and that the goods made by the plaintiff, and taken *ut supra*, were unserviceable; the court took the custom to be good and reasonable, and

and the judgment was for the defendant, *nisi*. *Skin.* 55, 56.

By custom in the city of *London*, the *lord-mayor is chancellor*, and may call causes before him out of the sheriff's court, and rule them according to equity. *Skin.* 67.

Custom of *London* shall be preferred to the custom of the province of *York*, and notwithstanding the custom of the province of *York*, the heir by the custom of *London* shall come in for a share of the personal estate, for the custom of the province of *York* is only local, and circumscribed to a certain place, but that of *London* follows the person though never so remote from the city. 2. *Vern. rep.* 82.

Upon a certiorari, the custom of *London* was returned, *to punish by information in the court of aldermen, either for an assault or contemptuous words spoken of an alderman in the execution of his office*, and to fine him; and that at the wardmote held by Sir *Robert Jeffries*, the defendant assaulted him, and said, I have as much to do here as you; you think sure you are amongst your *Bridewell*-birds, but you are mistaken; the court held that it had been doubtful, if the offence was by words only, because no indictment lay at common law, but he is to be bound to good behaviour; yet *for assaults is be punishable*, and that may be *by information there by the custom*, as well as in B. R. by the course of the court, though the regular course by the common law is indictment. Secondly, the court held, that the information lay in the court of aldermen, though an alderman was grieved; otherwise of the mayor, for he is an integral part, without which the court cannot be held, but the other may be severed, and he must not sit. 2 *Salk.* 426.

Besides these and several other customs, there is a general custom which is usually set forth by the city, when any of their proceedings is called

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in question, *viz.* that if any of their customs heretofore used prove hard or defective, or if any thing newly arising within the city, where remedy was not before provided, should need amendment, in either of these cases, the mayor and aldermen for the time being, with the assent of the commonalty, may ordain fit remedy thereto, so as such ordinance be profitable to the king, for the profit of the citizens, and agreeable to reason. See 8 Co. 126. *Skin.* 371, &c.

O. and I. were bound as sureties with one A. to B. who recovered against I. in London, and had execution against him; and now I. sued O. to have of him contribution to the said execution, *ut interque oneretur, pro rata*, according to the custom of London; O removed the cause by privilege into B. R. whereupon came I. and prayed a *procedendo*; and because upon this matter, no action lies by the course of the common law, but only by custom in such cities, the cause was remanded; for otherwise, the plaintiff should be without remedy. 2 Leon. 166, 167.

Debt in B. R. upon a recognizance acknowledged to the chamberlain of London, according to the custom for Orphanage money, adjudged *per tot. Cur.* to be well brought in B. R. *Cro. Eliz.* 682.

By the custom of London, the debtor may be arrested before the money is due, to make him find sureties. *Vent.* 29.

A woman declared by bill original, in nature of debt *pro rationabili parte Bonorum*, in the court of the mayor and aldermen of London, and alleges the custom, that when citizens and freemen of London die, their goods and chattles, above debts and necessary funeral expences, ought to be divided into three parts, and that the wife of the testator ought to have one part, the executors another, to the discharge of the legacies, and dispose at their discretion, and the children of the testator,

testator, male or female, which are not sufficiently provided for in the life of the father, to have (notwithstanding the legacies in the will) the other third part, and that the suit for the same ought to be in that court, &c. but the court agreed, that it may be remanded here, and that being removed in *B. R.* it may be proceeded upon here, and that it is an original writ by the common law; and said, that there were several precedents to this purpose. And *Richardson Ch. I.* said, that the plaintiff might have declared, without alleging the custom, because it was well known there; but otherwise, where an action upon the custom is brought in a place where the custom extends not. *Heil. 158.*

A cause was removed out of *London* by habeas corpus, wherein the plaintiff had declared against the defendant as a *feme sole merchant*; and *Bartue* moved for a procedendo, because (he said) they could not declare against her as a *feme sole*, for that she had a husband. *Jones, Contra*; the husband may then be joined with her, for he is beyond sea. *Twifden* said, I think a procedendo must be granted for the cause alleged. It was resolved in the case of *Langlin and Brewin*, in *Cro.* (though not reported by him) that if the wife use the same trade with her husband, she is not within the custom. And they are to determine there, whether this case be within their custom; perhaps a victualler (as this trade is) not such a trade as their custom will warrant; and whether it will warrant it or not, is in their judgment. A procedendo was granted. *Mod. 26. pl. 70.*

Waste was brought in the bustings upon a lease for years of a brewhouse. *Lev. 109.*

Holt moved for a procedendo in an action against a *feme sole, merchant in London*, removed hither, and alleged, that by the custom of *London*, it should be tried there; and it was granted *per Cur. Camb. 42.*

S E C T. II.

Of the Custom of London in respect to Orphans.

IF any freeman or freewoman die, leaving Orphans under age unmarried, the custody of their bodies and goods, by the custom of *London*, belongs to the city, and their executors or administrators must exhibit true inventories of all their goods and chattles, and must bind themselves to the chamberlain to the use of the orphans, to account for the same upon oath; which if they refuse to do, they may be committed; also, if the Ecclesiastical Court will compel them to account there, against this custom, a prohibition lies. *Hob. 247. 1 Rel. Abr. 550. S. C.*

If a freeman of *London* leaves *London*, and resides in the country, yet his children, though born out of *London*, shall be orphans, and subject to this custom. *1 Rel. rep. 316. 1 Sid. 250. 1 Vent. 180. 1 Mod. 80. 2 Vern. 110. S. C.*

If such orphan is taken out of the custody of such person, to whom by them committed, they may imprison the offender till he produces the infant, or is delivered by course of law. *1 Sid. 250. Raym. 116. 1 Lew. 162. See 1 Mod. 80. 1 Lew. 32.*

Also by this custom, if any one, without the consent of the court of aldermen, marry such orphan under the age of twenty-one, though out of the city, they may fine and imprison him for non-payment thereof; for if the custom should not extend to marriages out of the city, their power would be but in vain. *1 Lew. 32. 1 Vent. 178. 1 Mod. 79. S. C.*

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The orphans money in the chamber of *London* is not a meer *depositum*, but in nature of a debt, or chose in action, which does not vest in the husband by the marriage of such orphan, nor can he bequeath it by will. 2 *Vent.* 340. *Preced. Chan.* 209. S. P. adjudged.

A woman, before she contracts marriage with *I. S.* agrees with him, that she shall have power to devise the sum of two hundred pounds to any person, and after the marriage, she, by her will, gives it to the children of the first husband, and dies. The husband after acknowledges a judgment at the common law for the security of it, yet, by the custom of orphans of *London*, he may be compelled by the court of orphans of *London*, to give new security for it at the chamber of *London*. 1 *Rel. Abr.* 550.

If a man for orphanage-money gives a security in the prerogative court, yet he may be compelled to give other security to the chamber of *London*. *Paſcb.* 17. *Ja. B.* said by *Hutton* to be the case of one *Lush*, of late time, resolved. 1 *Rel. Abr.* 550.

In *London* there hath been a court of orphans time out of mind, and there hath been a custom that if any freeman, or freewoman, dies, leaving orphans under age unmarried, that they have had the custody of their body and goods, and that the executors and administrators have used to exhibit true inventories before them; and if there appeared to be any debt, to be bound to the chamberlain, to the use of the orphans, in a reasonable sum, to make a good account thereof upon oath, after they have received them, and if they refused, to commit them till they were bound. This is a good and reasonable custom; and if the Ecclesiastical Court will compel them to make an account there against this custom, a prohibition lies. *Hob. rep. Ca.* 313.

Adjudging

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Adjudged that if an orphan, who by the custom of *London* is in the government of the lord-mayor and aldermen, *sues in the Spiritual Court for any goods, &c. due to him*, either by the custom of *London*, or by any legacy, &c. or to have an account, that *a prohibition shall be granted*, because the government of orphans of *London* doth by custom belong to the lord-mayor and aldermen, they have jurisdiction of them. *5 rep. 73. b.*

Debt lies in B. R. on recognizance acknowledged to the chamberlain, according to the custom of *London* for orphanage money. *Cro. Eliz. 682.*

In trespass and false imprisonment, the defendant justified by the custom of *London*, that the mayor and aldermen had the custody of orphans (*viz.* of the males till twenty one, and of the females till twenty-one, or marriage) and that the plaintiff took a city orphan out of the guardianship of A. and at the next court day was committed prisoner to the defendant; on demurrer by the plaintiff, exception was taken, that the plea was not good, to take a person without notice of his crime, and to carry him to the court to be immediately committed; that he ought to have notice of what he was brought to the court for, so that he might prepare to answer. But the court held it good, and gave judgment for the defendant. *Lev. 162, 163.*

As to the taking and marrying orphans of *London* without licence, a peer has no privilege for such offence. *Lev. 163.*

The portion of an orphan in the chamber of *London*, is of such a nature, that if the husband dies without altering the property, *his widow, and not the executors, shall have it.* *Chan. Ca. 182.*

The custom of *London* is, where there are several children, the father may appoint a right of survivorship amongst them. If there be a male child only, the father may devise over his orphanage

phanage part; if such male child die before the age of twenty-one years, and if there be a female child only, then the father may also devise over, in case such female child die before the age of twenty-one, or her marriage. 7 Vin. 199. cites M S. rep. Pasch. 13 Geo. I. in *Canc. Piddington v. Mayo*.

Bill against the city of London, by plaintiff, in behalf of himself and the rest of the proprietors of orphan stock, to have an account of the produce of that fund, and to have the surplus of that fund for some years last past, to be applied to make good the deficiencies of former years, for that by statute of 5 and 6 W. and M. cap. 10. Sect. 13. the produce of that fund is applied for the payment of the annual sum of four pounds per cent. to the proprietors, or so much thereof only, as the money, by this act appointed to be raised and paid as aforesaid, shall yearly amount unto, to satisfy and pay towards the said interest to the said orphans, equally in proportion, &c. and that there is no provision by the said act for making good the deficiency of any former year by the surplus of any subsequent year, &c. King Chancellor, assisted with Raymond, Ch. J. and Jekyl master of the rolls, held that the general intent and scope of this act was, to secure four pounds per Cent. to the city orphans for ever, for the respective sums due to them from the city, and the several funds thereby raised, are appropriated for that purpose, and the city is made trustee for them, and are to have no benefit by those funds, until the four pounds per cent. be paid to the orphans; and though sect. 13. of the act says, that the fund shall be yearly applied only to the payment of the interest of four pounds per Cent. yet the word (only) in that place shall not controul and overthrow the general tenor and scope of the whole act, and that clause seems chiefly calculated for the benefit of the orphans to prevent any misapplications,

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nions, or to apply any part of the annual fund to make good former deficiencies before the four pounds *per Cent.* for the current year, be fully paid and satisfied, and not give the benefit and advantage of any yearly surplus to the city, till all former deficiencies be made good to the orphans.

Decree, that the city shall account for the several years surplusses received by them, and pay over such surplusses to orphans *pro rata*, until the former deficiencies be made good to them, &c. *per cur.* 7 *Vin.* 200. cites *MS. rep.* 2 *Geo.* II. in *Canc. Ladds v. London city.*

Where the husband was attainted of felony, and pardoned on condition of transportation; and afterwards the wife became intitled to some personal estate, as orphan to a freeman of London; this personal estate was decreed to belong to the wife, as to a feme sole. 3 *Williams's rep.* 32.

H. was committed to Newgate by the court of orphans, for that he married an orphan without licence first obtained, and was fined forty pounds, and refused to pay it; *H.* brought a habeas corpus, to which several exceptions were taken, and amongst the rest, one was, that it was returned, that *H.* was a freeman, but that and all the others were over-ruled, and he was remanded. *Vent.* 178.

If a man marries an orphan who dies under twenty-one, her orphanage part shall not survive to the other children, but shall go to the husband. *Vern.* 88.

One *P.* was committed by the mayor and aldermen of London for marrying without their consent; and was brought into *B. R.* by habeas corpus; *P.* was also fined nine hundred pounds, and this conviction of his fine was removed by certiorari. Exception was taken to this conviction, because the custom, as set out, was, that they had power to commit the party offending where he took away an orphan,

orphan, and such orphan so taken away did marry; but here the fine is set for marrying without their consent, and it says nothing as to the taking away. But *per Holt. Ch. Just.* every marrying is a taking away out of their custody. 7 Vin. 198.

A child, entitled to an orphanage part, dying before twenty-one, and unmarried, cannot devise it by her will; for by the custom it survives to the other children; but she may devise what share comes to her out of her father's personal estate by the statute of distributions. 2 Vern. 558.

An orphan cannot release her customary share, it being a meer future right, nor can the husband do it, *per lord Macclesfield*; but whether such release will not amount to a composition, or agreement in bar of her future right, or be, as they call it, a compounding for her customary share, was not determined. Ch. Prec. 544, 546.

The husband of the daughter of a freeman (who had another daughter and son) upon receiving a suitable portion, released all right and interest which she had, or might have by the custom or otherwise, and by the same deed covenanted that, at any time after the death of the father-in-law, he would do any further act for the releasing of any right, which he might have by the custom, to the executors, &c. of the said father. The court seemed inclined that the release being for a valuable consideration, purporting an agreement to quit the right, to be binding in equity; but however, the covenant for a valuable consideration, to release the future right is good, and the executor having, before the bill brought, tendered a release, which the husband refused to execute, the court decreed an execution. 2 Williams's rep. 272.

And where the same freeman had left to his other daughter (a very weak woman) three thousand five hundred pounds, by his will, and she being forty years old, and not likely to marry, and the

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the father, after making the will (as was positively sworn by the son the defendant) *desired the son to secure to his said sister an annuity of two hundred and fifty pounds a year, in satisfaction of her legacy, which he accordingly did; and she, in a publick manner, with the consent of her relations, and friends, and the brother-in-law and sister, as also the trustee in the father's will, were witnesses to the deed, released all her right to her father's personal estate by the custom of London to her brother; and the brother-in-law and his wife, after the death of the said sister, bringing a bill for the orphanage part, the same was dismissed with costs, and decreed the brother-in-law in the cross cause to release his right to the customary part, in pursuance of the covenant, and to pay costs there also. Per, Jekyl, and Gilbert, commissioners. 2 Williams's rep. 272.*

The defendant was bound by recognizance to the chamberlain of London for payment of divers sums of money for orphans portions; and departed out of this city, and dwelt in Oxfordshire, leaving no estate behind him in the city; so as the process of the city cannot take hold of him; therefore a subpoena is granted against him upon pain of one hundred pounds, to appear before the mayor and aldermen, and to stand to their order. *Gary's rep. 60. cites 2 Eliz. fol. 5. Mayor, &c. of London v. Dormer. Afterwards fol. 67. ordered, if he do not appear, an attachment is granted.*

An orphan under age, whose father left him one thousand pounds, which was in the chamber of London, married a wife with a good portion; she was allowed two hundred and forty pounds out of the one thousand pounds, and so relieved against the custom of London. *Chan. rep. 26.*

The defendant, for what money he has put out belonging to the plaintiff, as her orphanage money,

money, shall account and pay interest after such rate as is allowed for orphanage money by the court of orphans, and no more. *Chan. rep.* 108.

Upon the marriage of orphans, the custom is to appoint the *common serjeant* to treat and take security for the orphan. *Arg. 2 Vent.* 341.

On a bill to bring in a foreigner to give security to the city for the orphans portion, according to the custom of the city, *Bridgman K.* decreed the plaintiff to try the custom. *Chan. Cases* 203. 23 ch. 2. mayor, &c. of London, and *Byfield v. Slaughter*, and others, the executors of the plaintiff's father.

Orphanage part, according to the custom of the city of London, was decreed with costs. *Fin. rep.* 248.

Plea of an account of an orphan's estate before the aldermen of London, was disallowed, and surcharge allowed to be made thereon by lord chancellor. 2 *Chan. Ca.* 170.

The plea for an account before the aldermen was disallowed, and a surcharge allowed by the lord chancellor to be made, and decreed the executor to pay interest at six pounds *per cent.* for the money not paid into the chamber, till he paid it in, though the chamber usually took but five pounds *per cent.* 2 *Chan. Ca.* 170.

This custom of the city of London, is the remains of the old common law, that a man could not give away any part of his estate without the consent of his children, and is so taken notice of in *Bracton*, but being found extremely inconvenient and hard, it was by the tacit consent of the whole nation, abrogated and grown into disuse, (for what law has ever been made to repeal it ?) and kept up only in the city of London; per lord Macclesfield *Chan. Prec.* 596.

By the custom of London, a freeman cannot devise either the orphanage part, or the contingency of

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of the benefit of survivorship amongst orphans, neither can an orphan devise his orphanage part, or the part which accrued by survivorship. But such freeman may give by will to his children, legacies inconsistent with the distribution under the custom; and then such children must make their election, whether they will abide by the will, or by the custom; but they cannot abide by the will in part only, and take the benefit of the custom also. Cases in Equ. in lord Talbot's time.

There is no such custom, as that a child marrying under eighteen years, without the father's consent, shall lose her orphanage part. Fin. rep. 248.

A freeman of the city of London dies having a wife and child, the wife dies, her third shall go to the executor, or administrator; so if the child dies, and leave an executor, the child's part shall go to the executor, but not to the administrator of such child; for if there be no executor, it shall go to make up and increase the orphanage money of the other children. Arg. 2 Shaw. 409.

A daughter of a freeman, marrying without her father's consent, loses her orphanage part, unless he is reconciled to her before his death. Fern. 354.

A custom of London doth not extend to grandchildren; as if A. the grandfather dies, leaving the father with several daughters, these daughters are not within the custom. Per lord keeper Cowper. Hil. Vac. 5 Ann.

A grand-child is not within the custom of London to come in for his father's or mother's share, together with the other children of a freeman; and this has been settled by the lord chancellor, where a deed, by way of provision for a grand-child, being made by the grand-father,
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after the father's death, in order to introduce him into his father's place, was set aside, as made in fraud of the custom, against the surviving children. *Chan. Proc.* 470.

S E C T I I I.

Of the Custom of London in respect to a freeman's estate; what shall be esteemed such an estate as will be subject to the Custom; and what disposition a freeman may make thereof.

HERE it is necessary in the first place to take notice, that by the custom of *London*, if a freeman of *London* dies, leaving a widow and children, his personal estate, after his debts are paid, and the customary allowance for his funeral, and the widow's chamber being first deducted thereout, is by the custom of the said city to be divided into three equal parts, and disposed of as follows, *viz.* one third part to the widow, another third part to the children unadvanced by him in his life-time, and the other third part such freeman may dispose of by his will as he pleases; but if a freeman of *London* has no wife, but has children, [the half of his personal estate belongs to his children, and the other half the freeman may dispose of; so if the freeman has a wife and no children, half of his personal estate belongs to his wife, and the other half he may dispose of. F. N. B.

122. 2 *Inst.* 33. *Lit. rep.* 324. 2 *Lew.* 130.

1 *Chan.*

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1 *Chan. Ca.* 285. *Hell.* 158. *Godb.* 49. *Latch.* 134. 2 *Leon.* 29. *Cro. Eliz.* 185. 2 *Salk.* 426.

This custom extends only to the personal estate of a freeman, for when it first began, the citizens of *London* had no regard at all to a real estate, for they did not suppose any freeman of *London* would purchase such estate, but would employ his whole fortune and stock in trade, for the benefit of commerce. *Abr. Eq.* 150.

But if a freeman of *London* has a mortgage in fee, this shall be counted part of his personal estate, and will be subject to the custom. 1 *Chan. Ca.* 285.

But a lease for years waiting on the inheritance shall not be reckoned part of a freeman's personal estate, but shall, together with the inheritance, descend to the heir at law. 2 *Chan. Ca.* 160. 1 *Vern.* 2, 104. S. P.

Also if a freeman of *London* agrees to lay out money in the purchase of lands, and to settle the same on his eldest son, &c. this shall not be reckoned part of the freeman's personal estate. 1 *Vern.* 345. 2 *Chan. Ca.* 118. S. C.

On a marriage of *B's* daughter with *A.* a freeman of *London*, *B.* the father, settles a term for years in trust, that *A.* the husband, shall receive the rents and profits till such time as *D.* and *E.* or the survivor of them should otherwise appoint, and then such person as they should appoint; and for want of such appointment, then in trust for the executors and administrators of *A.* the trustees having made no appointment, the question was, whether this term should go according to that appointment, or be looked on as part of *A's* personal estate, who was a freeman of *London*, and so go according to the custom; and the court was of opinion, that it was not to be looked on as a part of *A's* personal estate, because it was never in him, but was settled by his wife's

of London, &c.

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wife's father, and therefore not subject to the custom. *Abr. Eq.* 151.

If a freeman of *London* is made both executor and residuary legatee, and he dies before he has made his election, whether he will take as executor or legatee, yet the legacy must be considered as such, and will be subject to the custom of *London*. 1 *Chan. Ca.* 110.

By this custom a freeman could not by will dispose of such part of his personal estate as belonged to his wife or children; and even dispositions by him in his life-time, have been held void, especially when they appeared to have been made in fraud of the custom, and with a view to defeat it. 1 *Lev.* 227. 2 *Vern.* 277. 1 *Chan. Ca.* 199.

But now by the 11 *Geo. I. cap.* 18. it is enacted, "that it shall and may be lawful to and for all and every person and persons who shall at any time from and after the first day of *June*, 1725. be made or become free of *London*, and also to and for all and every person and persons who are already free of the said city, and on the said first day of *June*, 1725. shall be married, and not have issue by any former marriage, to give, devise, will and dispose of his and their personal estate and estates, to such person and persons, and to such use and uses, as he or they shall think fit."

"*Provided* nevertheless, that in case any person, who shall at any time or times from and after the said first day of *June* 1725. become free of the said city, and any person or persons who are already free of the said city, and on the first day of *June*, 1725. shall be married, and not have issue by any former marriage, hath agreed, or shall agree by any writing under his hand, upon or in consideration of his marriage, or otherwise, that his personal estate shall be subject to, or to be distributed, or distributable, according

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ing to the custom of *London*; or in case any person so free, or becoming free as aforesaid, shall die intestate, in every such case, the personal estate of such person so making such agreement, or so dying intestate, shall be subject to, and be distributed and distributable according to the custom of the said city; any thing herein contained to the contrary in any wise notwithstanding."

A deed of gift made to defraud the plaintiff of her customary part by the custom of the city of London was adjudged void. Totb. 113.

A mortgage made to a citizen and forfeited to him, shall be part of the freeman's estate to be distributed, and shall not go to the heir. Totb. 131, 132.

A citizen made a deed of trust of a lease to the use of his will, and he having two sons and a daughter, directed by his will his executor to convey the same to the two sons. Decreed that the deed is contrary to, and against the custom of London, and that the daughter ought, according to the custom, to have her part of the said lease and profits thereof. Chan. rep. 84. 10 Car. 1.

A freeman of London devised, that his third part should make the customary part of his children five hundred pound a piece, if their customary parts did not amount to so much; and that if any of them died before twenty one, his part should be divided amongst the survivors; all of them died before twenty one, except the plaintiff's wife, her brother John being the last that died, and they had received out of the father's part, as much as made his wife's part five hundred pounds, and the question was, if she should be intitled by the will, if she should have John's part; it was objected that she should not, for it is not due by the will, but by custom, and she ought to administer to John to make a title, for the father had no power to appoint a survivor; but per Keeling Cb.

Ch. I. though the father has no power to dispose the customary part from his children, yet he may appoint a survivor thereof among the children themselves, by his will, and so serjeant *Wild*, recorder of *London*, said, it was lately so resolved in chancery, in a case where he was counsel; and so *Keeling* now directed the jury, who gave the verdict accordingly for the plaintiff, for the whole. 1 *Lew.* 227.

A citizen of *London* cannot devise over his child's part to another, in case the child dies under age. *Chan. Ca.* 199.

A citizen of *London* being executor and residuary legatee, dying, whether this being but a legacy, which till election rested *prima facie* in the legatee, not as legatee, but as executor, and the first testator's estate, which remains in the executor, as executor, shall not be subject to the custom as the executor's own estate? The lord chancellor decreed the contrary, and said, I will make election for him. *Chan. Ca.* 310. *Hil.* 30 and 31 *Car. 2. Civil v. Rich.*

If a citizen of *London* has a trust of a term attending his inheritance, and dies, the trust of the term shall not be subject to the custom of *London*, to be divided between the wife and children, &c. as other personal estate and chattles shall; per lord chancellor. 2 *Freem. Rep.* 66.

Where a citizen of *London* dies intestate, the third part of his goods belonging by custom to his administrator, is not subject to distribution by the statute. 22 *Car. 2. cap. 10.* for settlement of intestates estates. And it was granted by all, that by the custom of *London* the heir shall have his share in the distribution; and judgment accordingly. 2 *Jo.* 204. *Pasch.* 34. *Car. 2.*

If goods are absolutely given away by a free-man of *London* in his life, this will stand good against the custom. But if he has it in his power, as by keeping of the deed, &c. or if he

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retains the possession of the goods, or any part of them, this will be a fraud upon the custom. *Per. Cur. 2 Vern. 277.*

A. on a marriage of M. his daughter to B. a freeman of London, settles a term for years in trust, that B. the husband should receive the rents till such time as W. R. and W. S. should otherwise appoint, and then to such person as they should appoint, and for want of such appointment, then for such as B. should by will appoint, and for want of such appointment then in trust for the executors and administrators of B. The trustees made no appointment, so the question was, whether this term should go according to that appointment, or be looked upon as part of B's personal estate, and so go according to the custom, he being a freeman of London. And lord keeper was of opinion, that it was *not* to be looked upon as part of B's personal estate, because it never was in him; but was settled by the wife's father, and therefore not subject to the custom. *Abr. Eq. Ca. 151.*

A freeman of London grants the greatest part of his personal estate in trust for himself for life, and then for his children by his son, who was dead. A has no wife, but has a daughter living. Decreed the deed to be set aside (A. not having entirely dismissed himself of the estate in his life-time, and being made a little before his death, is a *donatio causa mortis*) as to the moiety belonging to the children, in this case, there being no wife, but as to the other moiety of which he had power to dispose (as having no will) the deed will stand good; *per Cowper C. 2 Vern. Rep. 612.*

A freeman of London had issue a son and a daughter; the son died, leaving three children. The freeman assigns leases in trust to sell and pay any sum not exceeding one thousand pounds, as he should appoint, and he by deed and will appointed

pointed five hundred pounds to his daughter, and the residue to his grand children. Decreed to be set aside, as to a moiety, which the daughter by the custom, as only *surviving child*, was intitled to, as being in *fraud of the custom*. 2 Vern. Rep. 685.

The children of a freeman of London, where there is *no wife*, are intitled to a *moiety*, the other moiety being the dead man's part; admitted by counsel on both sides; and decreed, *per* master of the rolls. Williams's Rep. 341. Hil. 1716.

A. a freeman of London, purchased an estate in the names of B. and C. and the consideration money was mentioned in the conveyance, to be paid by B. but no trust declared. A. dies, and some time after, B. gave a declaration, that the purchase was made in trust for A. This is a good bar against the widow of A. who claimed a share of the moiety paid for the purchase, insisting that it ought to be looked upon as part of the personal estate of A. and consequently that a right vested in her by the custom to a share of this money in the hands of B. which could not be altered by such subsequent declaration of trust; but decreed against her; however, considering all circumstances, the court recommended it to the heirs or devisees of A. to agree to let the wife in for her dower of this trust estate. Williams's Rep. 321.

A leasehold estate devised by a freeman of London to a trustee, for the separate use of his daughter, shall not be taken as part of her orphanage part, but out of the legatory part; but if the legatory part is not sufficient, the legatees must abate in proportion. 2 Vern. Rep. 754.

A freeman having a wife and one child (*inter al.*) devised the orphanage part to the child, and in case of the child's death before twenty-one, then to go over to the testator's father; and it was

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held that this devise over was void, for that the father had nothing to do with the child's orphanage part, which came to him by the custom, not from the father ; and were such devise over to be good, it would be a prejudice to the child (who in case there was but one child) might devise over such part at fourteen, which would take effect, were the child to die before twenty one, or if he should die intestate, and unmarried, it would go all to the mother as his next of kin, and not according to the father's will ; or if the child marry and die within age, leaving issue ; the widow and issue would be destitute, were such will to be good. 3 *Williams's Rep.* 319.

Covenant on marriage, by a freeman, to add one thousand five hundred pounds of his own money to one thousand five hundred pounds of his wife's, to be laid out in land, and settled on the husband and wife for life, &c. is not to be looked upon as breaking into the custom. For the freeman might at any time during his life, even in his last sickness, have invested his personal estate in a purchase of land, which would defeat the custom, and stand good, though the freeman should at the same time have said, that he did this on purpose to defeat the custom. And this, if the purchase was real, would have held good to bar the custom. Per lord chancellor Parker. Williams's Rep. 532.

A freeman having no wife, and only one daughter, devised all his personal estate to his daughter, who was married, for her own separate use, and was enjoyed accordingly. The husband died. The representatives of the husband are not intitled to such part as was the daughter's customary share, but the whole belongs to the wife. 7 Vin. 221.

A freeman of London, before marriage, compounds with his wife for her customary part. The freeman dies, leaving children and the widow ; the question was, whether the husband or the children

children should have the benefit, so as that the husband might by this means dispose of two third parts, *scilicet* his own third testamentary share and his wife's; or that his children would be intitled to a full half part, as if the wife were actually dead? Lord *Parker* declared his opinion in favour of the husband's right, but with a salvo as to the certificate, which might be made (if occasion should be) by the lord-mayor and aldermen, by mouth of their recorder. See *Williams's Rep.* 634. to 647.

N. B. There is a note at the end of the case, that the parties came to an agreement, so that these points were never certified.

A mortgage shall be paid out of the personal estate, in preference to the customary or orphanage part, by the custom of *London*; *Arg.* said to have been so determined; and the same was admitted by lord *C. King*, because the custom of *London* cannot take place till after the debts paid.

S E C T. IV.

Of the Children's part; and of Survivorship, advancement, and bringing into Hotch-pot.

IT has been already observed, that the children of a freeman of *London*, are intitled to the third part of his personal estate, in case he dies leaving a wife, and to a moiety in case he dies having no wife, but this custom does not

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extend to grand-children; and therefore if a freeman of *London* has two sons, and the eldest dies, leaving a son, the grand-child, though in law, a representative of the son, shall have no part by the custom. - 2 *Salk.* 426. 1 *Vern.* 397.

But a posthumous child shall come in with the rest of the children for a customary share of a freeman of *London*'s personal estate. *Abr. Eq.* 154.

If a city orphan dies before twenty-one, his orphanage part survives to the orphans, and he can make no disposition by will to contradict it; but if he dies after twenty-one, at which time he might by will have disposed of it, there, though he die intestate, it shall go according to the statute of distributions, between his mother and surviving brothers and sisters. 2 *Salk.* 426. *Prec. Chan.* 207.

But if a freeman of *London* dies, leaving two daughters and a wife, and one of the daughters die before twenty-one, though after a division and partition of the personal estate, yet the surviving sister shall have the whole of the orphanage part. *Abr. Eq.* 156.

But this custom of survivorship holds only with respect to the orphanage part belonging to such child; and therefore if he by survivorship hath the part of any other brother or sister, such part shall go according to the statute of distributions, or may be disposed of by him by will before the age of twenty-one. *Preced. Chan.* 537.

If the daughter of a citizen of *London* marries in his life-time, against his consent, unless the father be reconciled to her before his death, she shall not have her orphanage share of his personal estate; and it would be unreasonable to take the custom to be otherwise. 1 *Vern.* 354.

By the laws and customs of *London*, if any freeman's child, male or female, be married in
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the life-time of his or her father, by his consent, and not fully advanced to his or her full part or portion, of his or her father's personal or customary estate, as he shall be worth at the time of his decease, then every such freeman's child so married as aforesaid, shall be excluded and debarred from having any further part or portion of his or their said father's personal or customary estate, to be had at the time of his decease, except such father, by his last will and testament, or some other writing by him written and signed with his name or mark, shall declare and express the value of such advancement; and then every such child, after the death of his or her said father, producing such will or other writing, and bringing such portion so had of his or her father, or the value thereof into hotch-pot, shall have, as much as will make up the same a full child's part or portion of the customary estate, his or her said father had at the time of his decease; notwithstanding such father shall by any writing under his hand and seal declare, that such child was by him fully advanced. *Abr. Eq.* 154, 155.

A freeman of *London* having advanced his daughter with a portion, and intending to exclude her from any further share (on some displeasure taken against her) made his will, and thereby recites, that he had advanced his daughter with three hundred pounds and upwards, gives her five shillings, and no more, and died; yet after his death, the daughter, on a bill brought to have the said three hundred pounds made up a moiety of his estate (he having no other child, and the custom not extending to grand-children) had a decree accordingly, for the words, *and upwards*, are *certum in incerto*, and not to be regarded; though it was objected it might be one thousand, or two thousand pounds, or any other

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sum above three hundred pounds. *Abr. Eq.* 155.

A settlement of a real estate on a child, is no advancement, nor to be brought into hotch-pot.

1 *Chan. Ca.* 160.

If, upon a marriage treaty, *A.* a freeman of *London*, covenants to leave his wife two thousand pounds, at his death, two thousand pounds to his eldest son, and one thousand pounds a-piece to his younger children, and dies, leaving several younger children; the one thousand pounds a-piece to the younger children being due only by covenant, is a debt on the personal estate, and not being to be paid till after the father's death, is no provision or advancement within the custom of *London*, to bar them of their customary or distributary shares. *Abr. Eq.* 250.

If a freeman of *London* advances a child in part, by a portion which is to be brought into hotch-pot, such portion or advancement must be brought into the orphanage part only. 1 *Vern.* 345. 2 *Vern.* 281. 2 *Salk.* 426. *S. P.*

And therefore, if there be but one child, who has been in part advanced by the father in his life-time, such child shall not bring his part into hotch-pot, there being none in equal degree with him. 2 *Vern.* 234, 630. 2 *Vern.* 754. *S. P.*

Resolved, that where a citizen of *London* devises a legacy to one of his children, that notwithstanding that child shall have his share out of the customary part, unless it doth appear, that by the intent of the testator, that legacy was to go in satisfaction of his whole share. 2 *Freem. Rep.* 28.

A man devised three thousand pounds to his daughter, and the residue of his personal estate he devised to his brother. The question was, whether this daughter should have her customary part besides this legacy, by reason that he gave
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The residue to his brother, which is a kind of an implication, that the daughter should have the three thousand pounds, and no more; and if she should have her customary share too, there would be nothing left for the brother. But the lord chancellor held clearly, that she should have her legacy and her customary share too; there being no words in the will to exclude her, she shall not be barred by implication; and if there was nothing for the brother, he could not help that, it must go as far as it would. 2 *Freem. Rep.* 67.

Per cur. any provision made by the father in his life-time, for his children, is an advancement within the custom, unless it be declared by writing, that they are not sufficiently advanced; and for some time it was held that in such writing there must be mention made what sum they received from their father, because of bringing it into hotch-pot. *Vern.* 89.

The father, by a prior will, declares the child not fully advanced, and after revokes that will, and by a latter declares that child fully advanced; such former will is a sufficient declaration to let the child into the hotch-pot. 2 *Chan. Ca.* 117.

A portion of money given by a freeman of London to his son, has ever been taken for, and towards the advancement of such son out of his father's personal estate, within the custom of the city of London. 2 *Chan. Ca.* 118.

Father, on his son's marriage, pursuant to articles, for purchasing lands to be settled on his son and his wife, &c. advances four thousand pounds, quere, if this be an advancement to bar him? The chancellor decreed, the son to have his share of the personal estate, without bringing the four thousand pounds into hotch-pot. 2 *Chan. Ca.* 119.

When a citizen has several children, some advanced, some not. The advanced die. The father dies. There shall be no consideration had

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of the dead children, who were advanced; but it is all one as if they had never been. Decreed. 2 *Chan. Ca.* 119.

A freeman of *London* having as he imagined several *chymical receipts* of a very great value, gave them a little before his death, to *J. S.* who had married one of his daughters. It was alleged, in order to bring the same into hotch-pot, that they brought *J. S.* the defendant, five hundred pounds a year, and the plaintiff offered to give the defendant five hundred pounds for his interest therein, and so insisted that they ought to be looked upon as part of the freeman's personal estate; and the defendant accounted for them to the plaintiff, who had married the other daughter. But lord chancellor would not decree the same, saying, he would not countenance such a piece of quakery as to put a value upon them. *Vern.* 61, 62.

If a citizen conveys to a child land of inheritance, though it be expressed for advancement, it bars no child's part; but such may come in for a share, &c. with the rest. This was certified by the recorder. 2 *Chan. Ca.* 160.

The question was, whether the children, who are declared not fully advanced, are to bring what they had received into hotch-pot, with the orphanage thirds, after the estate is divided into thirds, and not into hotch-pot with the whole estate; and decreed accordingly, not to be with the whole estate; and what hath been received by any one more than their share, and legacies, is to be repaid, as the master shall appoint. 2 *Chan. Rep.* 359, 360.

A freeman gave a portion with his only child on her marriage. Whether she was excluded thereby of her orphanage part, the testator not having declared by will, or otherwise, that she was not fully advanced? 2 *Vern.* 234.

With regard to the advancement of a child, it has been determined, that small, inconsiderable sums, occasionally

occasionally given to a child, cannot be deemed an advancement, or part thereof. Thus maintenance money, or an allowance made by a freeman to his son at the University, or in travelling, &c. is not to be taken as any part of his advancement, this being only his education, and it would create charge and uncertainty to enquire minutely into such matters. So putting out a child apprentice, is no part of his advancement, for it is only procuring the master to keep him for seven years, instead of the parent. *Trin. 1718. at the Rolls, Hender v. Rose.* But the father's buying an office for his son to be but at will, as a gentleman pensioner's place, or a commission in the army, these are advancements *pro tanto.* 3 *Williams's Rep.* 317.

Where it appears, any how, under the father's hand, how much he has received, though it is therein said, that the said portion is, or was, in full of the child's part by the custom, yet the child shall not come in for the customary part of the rest of the father's personal estate, being the portion already received into hotch-pot; otherwise it is, if it does not appear under the father's hand what the advancement was. 2 *Salk.* 426, 427.

By the custom of *London*, if a freeman hath advanced a child in his life time, and it appears by his will, or by any writing, what the sum advanced is, and that the sum advanced is less than the customary share doth amount unto, such child, so advanced, may come in for a customary share, bringing the sum advanced in hotch-pot; but if it doth not appear what the advancement is, then the advancement is a bar of the customary share. The case here was, that the father of the plaintiff and defendant; in his will, takes notice, that he had advanced the plaintiff in his life-time, by giving her three hundred pounds and upwards, and thereupon gives her five shil-

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lings only by his will. And the question was, whether this shall be taken to be such a certain sum appearing in writing, that she may put it in hotch-pot, and come in for her customary share, by reason of the word (upwards) which, as it was said, made it very uncertain; but decreed that it was a certain sum appearing in writing, and he would take it to be three hundred pounds only; and although it was said, that by the word (upwards) it might be taken to be five hundred pounds, or one thousand pounds, the master of the rolls said it could not be so intended here, but that it might be intended a little more, and so little, that the testator did well know, *Et de minimis Non curat Lex*. Note, it was supposed that the word (upwards) was inserted purposely to make it uncertain, which made it look like a trick; but if he had taken notice that he had advanced his daughter, and not said what, she had been barred; but here it was decreed, that she should come in for her share, and bring the three hundred pounds into hotch-pot. 2 *Freem.* 279, 280.

If a freeman of *London* enters in his books several sums of money, as paid on account of his daughters, he cannot afterwards write off again, or make the husband debtor for them. *Per Cowper C.* 2 *Vern.* 631.

A freeman of *London*, who was a widower, and had several children, being possessed of a considerable leasehold estate, on a second marriage, conveys these leases in consideration of two thousand pounds portion, in trust for himself for life, remainder to his wife for life, in lieu and bar of all dower, customary estate, &c. remainder to the first son of that marriage, and so to every other son; and in the settlement there was an agreement, that the trustees should sell these leases and invest the money in the purchase of lands of inherit-

inheritance, to be settled to the uses aforesaid; but the *husband dying before any purchase made*, it was held first, that the wife was barred from claiming any other part of the personal estate. Secondly, that the children by the first venter could have no right to those leases; neither would this settlement prevent the children of the second marriage from coming in for a share of the rest of the personal estate; for by the agreement, these cases are now to be considered in equity; as if a purchase had been actually made, and the freeman had paid the money out of his pocket. *Eq. Abr.* 153.

A freeman of *London* married a widow of a considerable fortune, but she had several children, and it was agreed, that he *was to have six hundred pounds only of her fortune*, and the rest to be settled upon her children, and in case she should survive him, she was to have six hundred pounds to be paid her by his executors; accordingly a deed was executed and the parties were mentioned to be citizens of *London*. This was decreed by lord *Harcourt*, as a satisfaction of her customary part, and he took notice, that the deed was expressly worded in consideration of the marriage and marriage portion, so that he was master of that six hundred pounds, and therefore this six hundred pounds must be looked upon to come out of the personal estate; but as to the moiety of the other moiety (no issue being of the marriage) there was a question made, but the widow would be intitled to it, and an account was decreed accordingly. And the master of the rolls took notice of the deed mentioned to be made between the parties, citizens of *London*, so that the custom might be well supposed to be in their view. *Ch. Prec.* 355.

A freeman of *London*, having children by his first wife, and being about to marry again, made a settlement of some leasehold estate on his intended

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tended wife, and the issue of that marriage; the marriage takes effect, the husband dies, having issue, and a considerable personal estate; the children, by the first venter, brought their bill for an account of the personal estate, and insisted it wholly belonged to them; and that the second wife and her issue, ought to be excluded from any share thereof by reason of the provision made for them; it was decreed, that this composition with his wife before marriage bound her, but the children being infants, were left to make their election when they came of age, whether they would abide by that provision made for them by that settlement, or relinquish that, and come in for their customary shares only; and afterwards, on a rehearing, what should become of the customary part; it was held to fall into the husband's share; and in case no disposition was made thereof by him, it must go according to the statute of distributions. *Gill. Eq. Rep. 95.*

Smith was a freeman of *London*, and had issue one child only, a daughter, and gives her three thousand pounds portion, and marries her to the plaintiff *Maggot*, and is a party to the marriage-articles, where this sum of three thousand pounds is declared to be given to her for her portion, by her father the said *Smith*. Afterwards the said *Smith* makes his will, and thereby devises the sum of one thousand pounds, to his said daughter, and likewise gives several legacies to her children; he also gives his daughter certain lands for her life, &c. and then follows this proviso (*viz.*) provided, if my said daughter shall not within two months after my decease, upon request made to her by my executors, give a good and sufficient release to my executrix of all her right and interest to her customary share of my estate, &c. then my will is, that the legacy to her of one thousand pounds, and the several legacies

legacies aforesaid to her children, shall be void, and makes his wife (now defendant) his sole executrix and residuary legatee.

The bill was brought by the husband and wife, in right of the wife, for her customary share of the testator's estate.

1st, It was agreed, where the portion of the child appears in certain under the father's hand, such portion shall not be taken for a full advancement in the life-time of the father, to exclude and bar such child of her customary share.

2dly, Where a freeman dies, leaving only one child, who has a portion from her father in his life-time, such child shall not put her portion in hotch-pot, but is intitled to her customary share, besides what she had for her portion, because, where there are more children than one, such portion shall be put in hotch-pot, only with the customary share belonging to the children, that all the children may be equal.

3dly, It was resolved in this case, that the plaintiff's wife need only release her chattle legacy, and not the devise of the lands to her for life, because the express condition in the will doth controul the implied condition by the custom, that she must renounce all benefit by the will, if she will take advantage of the custom in subversion of the will.

4thly, If the children, being infants, shall forfeit their legacies according to the proviso, or not by the act of the mother. This point lord chancellor would not now determine upon this bill, but said, it would be time enough to do that, when they should bring a bill for their legacies; but as to the other matters, decreed *ut supra*. Per Cooper C. 7 Vin. 210. cites MS. Rep. Trin. 2 Geo. 1.

A provision for a child on her marriage by a freeman, is no bar to any future share she might be intitled to by the custom, any more than it would

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would be to her taking by descent or devise. Cited by Mr. *Vernon*, *Chan. Prec.* 508. as decreed by lord-chancellor *Cowper*.

S. brought a bill for one third of his wife's father's personal estate; a settlement by agreement, &c. was made on the marriage, and the father gave with his daughter an estate; as for her marriage portion, &c. by will, the father gave a thousand pounds to his wife, and five tenements (which were his own leases) to trustees in trust for the daughter's separate use, and made the wife executrix. S. being beyond sea, left the wife and children upon the mother, who maintained them. *Per Cowper C.* 1st, An advancement of a daughter by a real estate as her portion, &c. was not an advancement within the custom; but if it were in land, the certainty doth appear, and the land must be valued, and brought into hotch-pot; the custom has no relation to an estate of inheritance; if a freeman lays out his money, the custom is defeated; but if there was any provision made by agreement, &c. that instead of money as a portion, &c. the father should diminish his personal estate by making a purchase, it must be a question how far this would be within the custom; but lands descended, or purchased, are not. 2dly. That S. must have one third of the clear personal estate, deducting the widow's chamber, paraphernalia, &c. 3dly. That the five tenements given to the separate use of the wife, should not go in part of this one third to which the husband was intitled, for that the daughter had no election in this case. She could not choose the one third, because that was in the power of the husband, and to his account; and as the five tenements are here given to the trustees, it is a different kind from the husband's one third; nor is it to the same person; so it cannot go in part of satisfaction within the meaning of the testator. In cases

cases of the custom, the legatee has an election, whether he will renounce his legacy, or his one third part. Here the father has under all events, *ex abundanti*, made a provision for the separate use of his daughter out of the part which the father had power to dispose of. 4thly. If the legacies fall short, every one must abate in proportion; but if the daughter's separate provision fall short, which the father intended her, the court ought to lay hold on that which the husband ought to recover, when the account is taken, and it ought to be brought before the master, especially if the husband's going away were without the wife's default. 5thly. This specific legacy of the five tenements must be valued, and every one must abate in proportion. 6thly. The wife and executors must have her one thousand pounds, besides her one third part. 7 *Vin.* 210.

Sir *W. W.* in 1718, made his will, giving to his daughter seven thousand pounds, and to his son and executor, all the rest of his estate. He declared that this legacy to the daughter was in satisfaction of all she could claim, &c. under the custom, and she was to declare within one month after his death, whether she would abide by that or not, and she was to release, &c. The testator lived two years after his will; and, after his death, the daughter marrying within a fortnight, they were both made acquainted with the will, and the executor and son came one morning, and made a delivery of some plate, &c. specifically devised, and also assigned an annuity in the Exchequer, which was given to the daughter, &c. and being asked to execute a release, some time was desired for consideration, &c. In *Mich. Vac.* the question was, on a plea to the discovery and account prayed by a bill, whether what the daughter and husband had done, did amount to such an acceptance as did determine their election, and to exclude

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exclude them from a share by the custom ; and *per* lord chancellor the plea was allowed, because they had not made any election by the bill to waive the will, but with a saving to any further claim, or right they might make, *i. e.* by amending their bill, and running the hazard of the account of the personal estate ; for whether it be more or less, they must abide by the event of it. He declared that it was the testator's intention, that if she accepted of the legacy, she was to take that in satisfaction of the whole, under the custom, and that he never intended she should have any account of the personal estate, to see whether it was her best way to abide by the one or the other ; she was to have no such liberty, and therefore he confined her to a month's time to declare herself, so that all objections made from her, being under any surprize, or having any thing misrepresented unto her, is out of the case. It is likely Sir *W. W.* thought the custom very hard, and he had a mind to tie her down ; but yet this must be a compleat acceptance by her of all that he had imposed, but in this case it doth not appear that all was finished and compleated ; some things she did accept of, but the executing of the release was put off, and other matters for further consideration, so that this was not a full and entire acceptance, though he thought, that if all had been done and accepted of without the release, that was not so necessary to be done within this month, but might be executed at any time. 7 *Vin.* 211. *Per* lord chancellor, *Mich. Vac.* 1721.

Where a daughter, who married without the father's consent, was afterwards advanced in part, and the freeman, the father, had settled some leasehold estate to the separate use of the daughter, the *feme covert*, this ought to be brought into hotch-pot, it being, in the strictest sense

sense, an advancement of the child, *pro tanto*.
2 *Williams's Rep.* 273, 274.

A settlement was made on the wife of a citizen of part of the personal estate of the husband, in bar and satisfaction of all her claim, and demand out of his personal estate, by the custom or otherwise. The husband died intestate. The wife is barred of her distributive share of her husband's estate by the statute of distributions, by force of the words (or otherwise) for they cannot extend to nothing else; and it was said to be twice so adjudged by *Cowper C.* in the case of *Pit. v. Lee*, and *Davila v. Davila*; and decreed accordingly by *King, C.* 7 *Vin.* 211. cites *MS. Rep.* 13 *Geo.* 1. in *Can. Badcock v. Stanhope*.

Though a declaration by a freeman's will only, that a child was fully advanced, is not of itself fully sufficient, yet where the advancement was forty years before the freeman's death, so that it was difficult to prove an advancement made at that distance of time, yet a proof was read that the daughter's husband had confessed that he had received above one thousand pounds portion with his wife, from the freeman at his marriage; this was satisfactory. 2 *Williams's Rep.* 527, 528.

Where a daughter of a freeman of London accepts of a legacy of ten thousand pounds, left her by her father, who recommended it to her to release her right to her orphanage part, which she does release accordingly; if the orphanage part be much more than her legacy, though she was told she might elect which she pleased; yet if she did not know, she had a right, first, to enquire into the value of the personal estate, and the quantum of her orphanage part, before she made her election; this is so material that it may avoid her release. 3 *Williams's Rep.* 316.

A. a freeman of London, had issue two sons, B. C. and four daughters, D. E. F. and G. He in his life-time gave to B. and C. and to D. and E. one

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E. one thousand five hundred pounds a-piece, and took several receipts in the following words, *viz.* Received of my father *A.* one thousand five hundred pounds, which I hereby acknowledge to be on account, and in part of what he has given, or shall give unto me his son (or daughter) in, or by his last will. Afterwards made his will thus, *viz.* "And whereas I have heretofore paid to, given, or advanced with my children *B.* *D.* and *E.* (omitting *C.*) the sum of one thousand five hundred pounds a-piece; now I do hereby in like manner give and bequeath unto my other three children, *C.* *F.* and *G.* the several sums of one thousand five hundred pounds a-piece;" and then gives the residue equally among his children. The custom of *London* being waived on all sides, the question was, whether *C.* should be in the same case with *B.* *D.* and *E.* they being equally advanced by the father, and this seeming to be only a mistake in the testator, it was insisted that the receipt could not controul the express subsequent gift of the father, and that the omitting *C.* should be plainly intended a difference between them. But lord chancellor *Talbot* decreed the one thousand five hundred pounds, received by *C.* in *A.*'s life-time, to be a satisfaction for what *A.* gave him by his will, and that he should not have another one thousand five hundred pounds, upon the later words. *Cases in Eq.* in lord *Talbot*'s time 71.

If a freeman of *London* dies, leaving several orphans, and any of them die under age, whether this part is by the custom to go to the survivor? *Vernon* for the plaintiff argued, that it did by the custom go to the survivor, and had known a case where one married an orphan, and made a settlement on her, and she after died under age; her fortune went to her surviving brothers and sisters, and her husband could not have it; it was admitted by the court and counsel, that
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the father's will in this case, which gave it to the survivors, did operate nothing, because they did not claim under him; but, by the custom paramount, the will, though a case was cited, *Temp. Eliz.* where it was held, that the father may devise the orphanage part of the child, if he die within age, so that it be not to the prejudice of another orphan. Afterwards, fifth, 1702, the recorder certified the custom to be, that, if the orphan son dies before twenty-one, his share survives; and, if a female dies unmarried, and within the age of twenty-one, her share survives likewise; and the orphan cannot give it away by will. *Chan. Prec.* 207.

If there be a widow and two daughters, and one of the daughters dies, her orphanage-part shall wholly survive to her sister, and that even after a division and partition made between them; but, if the father's legatory part was devised to the daughter, that is under the direction of the statute as a legacy, and must be distributed between the mother and the surviving daughter accordingly. This difference was taken and agreed to by the court. *Chan. Prec.* 372.

A freeman left at his death a wife and several children, one of the children died seven years old. It was agreed, that share should survive; and that it was not subject to the statute of distributions; but query, whether it survived to the mother as well as the sisters? The orphanage part is not due till twenty-one, so that an orphan cannot dispose of it sooner. 7 *Vin.* 213.

Devise of lands to trustees in fee, in trust, within six years after the testator's death, to raise and pay one thousand five hundred pounds to his daughter A. A. dies within the six years; the one thousand five hundred pounds shall go to her administrator, here being no certain time limited when, but only the ultimate time, within which it shall be raised. 3 *Williams's Rep.* 119.

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An orphan, who was advanced with two hundred pounds, being the only child, is not to bring it into hetch-pot. 2 *Vern.* 629.

A sum of money given by a freeman of *London* to a daughter, if not given as a marriage portion, or in pursuance of a marriage agreement, is no advancement, as monies given at christnings and lyings-in; but, however, must be cast into hotch-pot. 1 *Vern.* 61.

An heiress has lands given her in frank-marriage; those must be cast into hotch-pot; otherwise of lands conveyed or given to her by her father, or other ancestors, after the marriage. *Per counsel, ib.*

Where an heir, or co-heir, had a real estate settled on him by the father, it is out of the custom of the city of *London*; and, though the father should after declare the same to be a full advancement for such child, yet it is no bar to his orphanage part; neither is it to be brought into hotch-pot. *Vern.* 216.

Where a child is married with the father's consent, and there is a portion given in marriage, such child is debarred from claiming any benefit of the orphanage part, unless the father shall, by writing under his hand and seal, not only declare that such child was not fully advanced, but likewise mention in certain, how much the portion given in marriage did amount unto; that so it may appear what sum is to be brought into hotch-pot. *Vern.* 216.

Money to be brought into hotch pot by an orphan, shall be brought into the orphanage part only, and not into the personal estate in general, so as the widow to come in for part of it. *Vern.* 343.

Money given by a freeman of *London*, to be laid out in land, and settled on his eldest son for life, remainder to his first and other sons in tail, shall not be reckoned any part of advancement, and brought into hotch-pot. *Vern.* 345.

Upon

Upon a reference to the recorder of *London*, by lord chancellor, to certify what is the custom in *London* concerning the advancement of children by their fathers, &c. which would exclude them from having shares of the personal estates of their fathers after their death; serjeant *Lovell*, recorder of *London*, certified the custom to be thus: *viz.* "If the father gives to his child one thousand five hundred pounds, and in his will declares, that he has advanced him, and afterwards dies, the child shall have no part of the residue of the personal estate of his father; but, if he had said by his will, that he had given one thousand five hundred pounds (which was a sufficient advancement) yet, upon putting it in hotch-pot after the death of his father, he shall have his share of the personal estate of his father, &c. And, if a man marries his daughter, and gives her a portion, if he does not take any notice of it in his will, this will be a sufficient advancement, and she shall have no share of her father's personal estate after his death." *Ex relatione m^{ri} Selby.* Note, Mr. *Cheshire* was also present in *Chancery* when Mr. recorder made this certificate; but he did not entirely agree with Mr. *Selby* about the certificate *ut supra.* Lord *Raym.* *Rep.* 484. See, in *Eq. Abr.* 155, in the note to *Pl.* 4, of the *S. C.* the certificate recited *Verbatim: viz.*

"We, the lord-mayor and aldermen of the city of *London*, having heard the said parties and their council, learned in the law, do humbly certify your lordship, that, by the laws and customs of the city, if any freeman's child, male or female, be married in the life-time of his or her father, by his consent, and not fully advanced to his or her full part of his or her father's personal or customary estate, as he shall be worth at the time of his decease, then every such freeman's child, so married as aforesaid, shall be excluded and

and debarred from having any other part or portion of his or her said father's personal or customary estate, to be had at the time of his decease; except such father, by his last will and testament, or some other writing by him written, and signed with his own name or mark, shall declare or express the value of such advancement, and then every such child, after the decease of his or her said father, producing such will or other writing, and bringing such portion so had of his or her father, or the value thereof, into hotch-pot, shall have as much as will make up the same a full child's part or portion of the customary estate his or her father had at the time of his decease; notwithstanding such father shall, by any writing under his hand and seal, declare such child was by him fully advanced."

If a freeman has one child only, which has received some portion from his father, and the father dies, leaving this child and a wife, the child shall have his full orphan's part, without any regard to what he has already received; for that advancement in part is only to be brought into hotch-pot with children, and not with others; *per Sir Edward Northey, 2 Salk. 426.*

If any child has any thing by the will more than the rest, which is declared as a satisfaction for her advancement, if she will claim the benefit of the custom, she must waive this; *per lord Cowper. Hil. Vac. 5 Ann. 7 Vin. 214.*

A freeman of London, willing to prefer two daughters beyond others, bequeathed to them a bond of three thousand pounds; afterwards, by advice, the clause was rased out, and the will republished, and a new bond given, in the name of J. B. in trust for the two daughters. Lord Cowper held, that this bond must be brought into the hotch-pot to intitle them to a further share. *Ch. Proc. 269.*

A. on

A, on his son *B*'s marriage with *C*, covenanted, in case of [a second marriage, to pay the first son by the first wife five hundred pounds. There was a son, and several children besides, of the first marriage. *Per Cur.* their heir must bring in the five hundred pounds into hotch-pot, though in nature of a purchaser under the marriage-settlement. 2 *Vern.* 638.

Bill by plaintiff, as only child of her father, a freeman of *London*, for her share of her father's estate, according to the custom of the city of *London*. The case was, the plaintiff, at several times, had received several sums of her father in his life-time; and her father transferred, one thousand seven hundred pounds bank-stock in trust for himself, in order to dispose of it, by his will, to the defendants, &c.

Query, If the plaintiff shall put the money given her by her father in his life-time into hotch-pot, with the residue of the testator's estate? or, whether she shall retain the money so given to her by her father, and have a moiety of the residue of her father's personal estate (being an only child, and the testator having no wife) according to the custom.

Mr. Vernon, for the plaintiff, insisted, that the plaintiff is intitled to a moiety of her father's personal estate, by the custom, without putting in hotch-pot what was given her by her father in his life-time; she being an only child, and not fully advanced by her father in his life-time.

He cited the case of *Turner v. Jennings*, lately in this court; where it was resolved, That a child of a freeman of *London* shall not put in hotch-pot what was given to her by her father in his life-time, and unless there be other children; and so it was resolved in *Chancery*, in the case of *Dean v. lord Delaware*, that an only child shall not put in hotch-pot where there is a widow, but shall have her customary share, besides what her father

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gave her in his life-time. If the child be fully advanced in the father's life-time, the father may dispose of all his estate by will. So if the father marries his daughter in his life-time, and declares her fully advanced, without expressing what sum he gave with her in marriage, this is a full advancement by the custom, though not so in reality, and will bar her of her customary share; but, if the certainty of the sum appears so given in advancement of the child, and it falls short of her portion of her father's estate, then it shall be put into hotch-pot, and she shall have her customary share. Declaration of a full advancement by the father, is not a bar of the customary share in any case but that of marriage.

If a freeman of *London* has ten children, and fully advances nine of them in his life-time, the tenth child shall have the customary share belonging to the children. If it appears that an only child has received from his father, in his life-time, as much as his customary share amounts to, this shall be taken as a full satisfaction of his customary share; but, if it fall ever so little short thereof, then it shall be taken as a gift from the father, and the child shall have his whole customary share, without any regard to it.

Note, *Tracy J.* who sat for lord-chancellor, ordered an account to be taken of what money the plaintiff had received from her father in his life-time, and on what account; and reserved the consideration, whether the money given to her by her father in his life-time should be taken in part of her customary share; or, whether she should have a moiety of her father's estate over and besides what he had given her in his life-time, there being no other child. *Curia advisare Vult.* 7 *Vin.* 216. cites. *M S. Rep. Trin.* 3 *Geo. I.* in *Canc.*

A. having seven children, makes an executor in trust, and devises to each child one seventh of his

his personal estate; one of the children dies in his life-time, and one of the six surviving children has been advanced by the father in his life-time; yet, this child shall take his full share of the seventh part, without bringing what he had before received into hotch-pot. 3 *Williams's Rep.* 124.

S E C T. V.

Of the Wife's Part of a Freeman's Personal Estate; and what shall bar her thereof.

THE widow of a freeman of *London*, by the custom, is intitled to her widow's chamber, and to a moiety of his personal estate, if he leaves no children, and to a third part in case he leaves any child or children. *Het.* 158. 1 *Vern.* 132. *Abr. Eq.* 156.

But if a woman, upon her marriage, accepts a settlement out of the freeman's personal estate; such compoundting, as it is called, shall bar her of her customary share. *Preced. Chan.* 325, 326, &c. *Abr. Eq.* 157.

But though such composition shall bar the wife of her customary share, yet is she not thereby precluded from demanding the benefit of any gift or devise the husband may think fit to make to her. *Abr. Eq.* 159.

Also if a freeman, whose wife has been thus compounded with, dies intestate, his widow shall have such part of the legatory, or dead man's share, as she is intitled to under the statute of limitations; especially if there were no express words in the agreement to exclude her. *Preced. Chan.* 327.

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If a freeman of *London* makes a jointure on his intended wife, and the same is expressed to be in bar only of her dower, or thirds of lands, tenements, and hereditaments, this shall not bar her of her customary share of his personal estate. *Abr. Eq.* 158, 159.

Where all the children were advanced, the widow had a moiety. *2 Vern.* 666.

The widow is intitled to the furniture of her chamber; or, in case the estate exceeds two thousand pounds, then to fifty pounds instead thereof. In a case before lord *Parker*, 18 Mar. 1728. *Biddle v. Biddle.* 7 *Vin.* 200.

If the wife be intitled to her customary part, and the husband dies, and then she dies, the executor of the husband shall not have this, but the executor of the wife, because it is a thing in action. *2 Freem. Rep.* 28.

The father, a freeman of *London*, possessed of a term, assigned it to his son for a provision, and died; the widow sued in *Chancery* for her customary part; and, upon issue tried before *Hale*, whether, by this assignment, she shall be barred of her customary part; it was proved, and found by the jury, that she is not bound by it, as being voluntary, but that she shall be intitled to her customary part of it; and so the like as of goods. *2 Lev.* 130.

If a woman, before marriage, agrees to a jointure in bar of her customary part, this agreement shall bind her, and she shall never after sue for her customary part. Held by lord-chancellor. *2 Freem. Rep.* 67.

A freeman of *London* leaves the city, and lives in the country twenty years together, and marries, and makes his wife a jointure, and dies. She shall have her share by the custom; *per North*, lord keep. *Vern.* 180.

Marriage agreement provided, that, if the wife claims any of the personal estate by the custom

custom of the province of *York*, then the estate settled in jointure should be to other uses. Decreed she is bound by the said settlement, and ought not to claim any part of the personal estate; decreed by lord C. *Nottingham*. But lord-keep. *North* decreed one third of the personal estate to belong to her as administratrix; and that it was an accruing right, not barred by the marriage-agreement. But lord c. *Jefferies* set aside the order of lord k. *North*, and confirmed that of lord c. *Nottingham*, and decreed accordingly. 2 *Chan. Rep.* 252.

A freeman of *London* left the city, and lived many years in the country; and, by his will, devised a lease-hold to *B.* and all his books to *C.* and, as to all the rest of his estate, consisting of money, goods, mortgages, and credits, he gave the use thereof to his wife for life, and made *B.* and *C.* and others, executors; and directed his executors, out of his estate, to pay the wife's funeral charges after her death, and gave her the use of his plate for life; and directed, that his stock and estate, then in *D.*'s hands, should there remain during her life, and the product be paid to her for her maintenance, and gave her several particular legacies, and devised over the surplus of his estate after his wife's death. It was decreed at the *Rolls*, and affirmed by the lords commissioners, that the wife should have a moiety of the books and goods, though specifically devised to others; and there being no child, the widow, by the custom, was intitled to a moiety, so that the testator could devise no more than a moiety, and therefore nothing more passed by the will; and that the specific legatees should not have any satisfaction out of the surplus for the moiety evicted by the widow by reason of the custom. 2 *Vern.* 110.

A voluntary judgment given by a freeman of *London*, payable three months after his death, is

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to be postponed to debts by simple contract, and to the widow's customary part, but will bind the freeman's legatory part. *2 Vern. 202.*

Any jointure binds and bars the wife; *per Dec.* city serjeant; and said, that it is called a composition. *2 Vern. 666.*

Where a freeman of *London's* wife is compounded with before marriage, by settling a jointure, though of land, the wife is taken as advanced; and the children, by the custom of *London*, shall have a moiety, as if the wife was dead; and so certified in the case of *Hall and ux. v. Lumley. 2 Vern. 665.*

The wife of a freeman of *London* shall not take by her husband's will, and likewise by the custom, unless it be so declared in the will. *Chan. Prec. 351.*

A widower and widow being about to intermarry, and having only personal estate, by articles made before marriage, agreed, that, in case the husband survived, he should have two thousand pounds only of his wife's personal estate, and the rest to be at her disposal, &c. and in case the wife survived, then she was to have two thousand pounds out of the husband's personal estate, without saying only, or, no more. The husband, being a freeman of *London*, died; and his wife brought her bill for an account of his personal estate over and above the two thousand pounds, and to be let into the customary share thereof; but it was decreed, that the equal construction of those articles must be to exclude the wife from any further share out of the estate; and, tho' the words were not so full to exclude her, yet the intent of the articles appearing to be a mutual reciprocal agreement between them for settling each other's claim, ought not to be extended larger on one side than the other; and decreed that the wife must have only the two thousand pounds. *Gilb. Eq. Rep. 95, 96.*

Bill by a widow of a freeman of London, for her customary share of her late husband's estate.

The case was, The husband made his will, and devised to his wife several shares in the *New-river* water, with remainder over, &c. and gave her several legacies. The will was sealed up in a sheet of paper, and inclosed in the same paper was a bond found, executed by the testator some time before the date of the will; which bond was conditional to pay the defendant, his nephew, the sum of one thousand pounds, or to transfer to him one thousand pounds stock in the *Million Bank*; but this bond appeared to be voluntary, and not given upon a valuable consideration, &c.

Query, If this voluntary bond shall be taken as a debt due from the testator, and consequently to be paid out of the testator's personal estate, before the widow's customary share?

Secondly, If the wife must renounce and disclaim all benefit and advantage by the will, as well the devise of the shares in the *New river*, for her life, being real estate, as the devise of personal chattles to her?

Trevor, master of the rolls, said, "The plaintiff must disclaim all benefit and advantage by the will, if she will have a decree for her customary share contrary to the will; and this is the constant course of this court."

Secondly, This bond being in nature of a voluntary gift, is fraudulent *quoad* the wife's customary share, and shall not stand in her way; and such sort of contrivances to evade the custom are always set aside in this court. Decreed accordingly. 7 Vin. 203. cites MS. Rep. 2 Geo. I. in *Chan. Edmundson v. Cox*.

A. a freeman of London purchased land in the name of B. and C. but no trust was declared. The consideration-money, being nine thousand four hundred pounds, was mentioned to be paid

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by *B.* but was proved to be *A.*'s money. But *B.* (who was an attorney at law) kept the writings, and received the rents of so much, as was let, of the estate, and *A.* by a paper, all his own hand writing, purporting an estimate of his estate, and what he was worth, had charged *B.* as debtor for money lent him to buy the said estate, and also for interest thereof. *A.* died; *B.* afterwards executed a declaration of trust. Decreed, that this declaration after *A.*'s death, is sufficient to bar the widow's part; but the court, upon the circumstances, recommended it to the heirs or devisees of *A.* to let the wife come in for dower of this trust estate. *Williams's Rep.* 321.

A freeman bequeathed a legacy to his wife, which, with the other legacies, did not exceed the husband's testamentary part; she shall take both the legacy and her customary part; *per* lord chancellor *Parker. Will. Rep.* 533.

Money of the husband's and wife's, by marriage articles, lodged in trustees hands, to be laid out in lands, and settled, and to be in bar of dower and jointure, is no bar of the customary part; *per* lord *Macclesfield*, for the money in this case, as soon as the articles are executed, is to be looked upon as land too. *Ch. Prec.* 505, 508.

A citizen of *London* jointures his wife before marriage, in land, to which the custom did not extend. Lord chancellor sent to the city to certify, whether this jointure did not bar her of her customary right? it was certified that it did not, because not made in bar of her customary; but that had it been made in bar, it would have bound her. 10 *Mod.* 457.

Acceptance of a settlement before marriage out of the personal estate, without any notice taken of the custom, bars the widow's customary part of the personal estate, if she survives,

as by virtue of the custom, but not debar her of taking any gift or devise the husband thinks fit to make her. *Abr. Eq. case 159.*

S E C T. VI.

Of the Legatory, or dead Man's share of a freeman's personal Estate.

THE legatory or dead man's share, is the third part of a freeman's personal estate, in case he has a wife and children, which the freeman might always have disposed of by will, and which for want of such disposition is under the direction of the statute of distributions, and not at all under the controul of the custom of London. *Salk. 426. 1 Vern. 6. 2 Vern. 559. Skin. 41. Prectd. Chan. 499.*

If a freeman of London makes his will, and devises legacies, to his children more than their orphanage part would amount unto, without taking any notice whatsoever of the custom; these legacies shall be a satisfaction of their orphanage shares, to which they were intitled by the custom in the nature of a debt; and the legacies shall not come out of the testamentary or dead man's part, for it would be unreasonable that they should take both by the will and the custom. *Abr. Eq. 160. and see 2 Vern. 111, 754. S. P.*

But if such legacies are less than their orphanage shares, they shall not *pro tanto* be a satisfaction, but in such case the legatees shall take both, especially if none of the devisees in the will are thereby disappointed. *Abr. Eq. 160.*

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If a loss happens to a freeman of *London's* estate, by the insolvency of his executors, such loss shall be born out of the testamentary part of his estate only, and out of the whole personal estate; for the wife and children of a freeman are in the nature of creditors, and shall have two parts in three of the personal estate he died possessed of, although his legatees are thereby defeated of their legacies. *Preced. Chan.* 409.

That the customary part, belonging to the administrator of a citizen of *London* dying intestate, is not within the act of distribution of intestates' estates; because the custom of *London* being saved by the act, the customary part shall go wholly to the administrator, as it did before; and so it hath been resolved at common law, and in *Chancery*. 2 *Freem. Rep.* 85.

An inhabitant of the province of *York* made a will, and devised a moiety of his estate to his wife; adjudged, that the widow should have three fourths. 2 *Vern.* 111.

• Where a citizen of *London*, by will, had devised seven hundred pounds for mourning, the question was, whether this seven hundred pounds should come out of the whole estate, or only out of the legatory part; for it was insisted, if there had been no direction to the will, or if the will had only directed, that the expences of the funeral should exceed such a sum, there the deduction must have been out of the whole estate. *Per Cur.* Mourning devised by the will, must come out of the legatory part, and not to lessen the orphanage and customary share. 2 *Vern.* 240.

Upon hearing this cause, the lord chancellor ordered one of the masters to state a case and send it to the recorder of the city of *London*, to certify to the court the custom of the city. The master stated a case as follows (*viz.*) *Thomas Anderson*, a freeman of *London*, by his will directed, that an inventory

inventory should be taken of his personal estate by his executors, and that *Barbara*, his wife, should have her widow's chamber; and after his debts and funeral charges paid. gave her a third part of his personal estate, another third part he gave equally amongst his children *Juliana*, *Hannab*, *Joseph*, and *William*, and *Jane*, who died in the testator's life-time, and the remaining third part he gave as follows (*viz.*) seven hundred and forty pounds to the said *Hannab*, forty pounds in small legacies, two hundred pounds a-piece to the said *Joseph*, *William*, and *Jane*, and the overplus (if any) to be equally divided amongst four of his children, and to be paid them by his executors (*viz.*) to his sons at the age of twenty-one years, and to his daughters at the age of twenty-one years, or marriage; and if the third part of his personal estate in his disposal should, by bad debts or accidents, fall short, and not be sufficient to pay all his said legacies, he willed each of the said legatees should bear such loss (whatever it amounted to) in proportion according to their legacies, and made *Duck*, *Chandler*, *Samuel Greenhill*, and *Thomas Greenhill*, executors; *Duck*, *Chandler*, and *Thomas Greenhill*, only proved the will, and exhibited an inventory of their testator's personal estate, into the chamber of *London*, and entered into the usual recognizance, and paid *Barbara*, the widow, and the plaintiff *Readshaw* (who married *Juliana*) several sums on account of their customary shares. *Thomas Greenhill* died, and *Duck* having taken out administration to him, a bill was exhibited against *Duck* and *Chandler*, the two surviving acting executors, for an account of the testator's personal estate, and to have a distribution thereof, according to the custom and the will. The defendant *Duck* (who was become insolvent) was indebted one hundred and sixty-three pounds, one shilling, and ten pence, as the ballance of

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his own account, and two hundred and seventy-nine pounds, nineteen shillings, received by his intestate *Thomas Greenhill*, out of the testator's estate, making together four hundred and forty-three pounds, and one penny. *Quere*, whether, by the said custom, the loss of the said freeman's estate, by the insolvency of his executors, ought to be born out of the testamentary part of his estate only, or out of the whole personal estate only, as well customary as testamentary. The same was certified as follows, *viz.*

"We the lord-mayor and aldermen of the city of *London*, whose names are subscribed, do, in obedience to the said order, by *William Thompson*, esq. recorder of the said city, ore tenus, humbly certify unto your lordships, That if a freeman of *London* dies, leaving a widow and children, his personal estate (after his debts paid, and the customary allowance for his funeral, and for the widow's chamber, being first deducted thereout) is, by the custom of the said city, to be divided into three equal parts, and disposed of as follows (*viz.*) one third part thereof belongs to his widow; another third part belongs to his children unadvanced in his life-time, and the other third part, such freeman, by his last will, may devise as he pleases. But where a loss of a freeman's estate doth happen by the insolvency of his executors, there is not any custom of the city of *London* which directs whether such loss ought to be born out of the testamentary part of his estate only, or out of his whole personal estate, as well customary as testamentary. Dated the twenty sixth day of *April*, 1715." This certificate of the lord-mayor and aldermen, being sent to the lord chancellor *Corupei*, he, upon hearing counsel, was of opinion, that the widow and orphans of a freeman of *London*, are in the nature of creditors, for two thirds of the personal estate he shall die possessed of;

of; and that if any loss happen by the insolvency of his executors, such loss ought to be born by the legatees of a freeman out of his testamentary part, and the same was decreed. 7 *Vin.* 216, 217. cites *MS. Rep. Trin.* 1 *Geo.* 1. in *Chan. Readshaw v. Duck, et al.*

A man made his will, and by it gave all his estate, according to the custom, having a wife and children, *viz.* two thirds to his wife, and one third to his children, with a devise over. Held *per* master of the rolls, that though this was not exactly conformable to the custom, yet his opinion was, that the devise of one third to the children was void, being what the custom gave, and so the devise over not good; that as the wife was to have two thirds, she shall take one third by the custom, and the other shall be the dead man's part; these proportions are to arise after a deduction of the widow's chamber, and her paraphernalia, *i. e.* such ornaments as she usually wore about her body; for though this is not by the custom, and was at first only allowed to citizens of the better sort, yet it is fit to give the same privilege to all citizens widows. Master of the rolls. *Trin. Vac.* 1718. 7 *Vin.* 217.

If a freeman gives a legacy to his child, and disposes of his whole personal estate, the child shall not have both the legacy and the orphanage part; even though the legacy does not exceed the dead man's part; *secus* if the legacy be given oppressively out of the testamentary part; but in no case shall the child be obliged to make his election, till after the account taken. 3 *Williams's Rep.* 124. in the note; cites the fourth of *July*, 1718, at the Rolls, *Hender v. Rose.*

In this case it was held, that where a freeman of London made his will, and devised legacies to his children more than their orphanage part would amount unto, without taking any notice whatsoever of the custom, that these legacies shall

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shall be a satisfaction of their orphanage shares, to which they were intitled by the custom in the nature of a debt, and that the legacies shall not come out of the testamentary or dead man's part, because it is held in this court, that they shall not take both by the will and the custom too; but where such legacies are less than their orphanage shares, whether they shall be *pro tanto*, in satisfaction, he was in great doubt, and sent it to the city to certify, though he seemed rather to think they should in this case take both, if none of the devisees in the will were thereby disappointed. *Equ. Abr. 160.*

A freeman of *London*, by his will, charges one thousand five hundred pounds on his real estate for his daughter, and also gives her one thousand five hundred pounds out of the personal estate. The daughter would take the one thousand five hundred pounds out of the real estate (as that is not within the custom) and also claim her orphanage part; but the court, in regard the testator had disposed of all his real and personal estate among his children, and intended an equal division, would not suffer the child to disappoint her father's will, but compelled her to abide intirely by the will, or by the custom. 3 *Williams's Rep. 123. Hil. 1731.*

S E C T.

SECT VII.

Of the Custom of London
with respect to feme Co-
verts, Masters, and Ap-
prentices; Landlords, and
Tenants; and for the speed-
y recovery of Debts.

BY the custom of *London*, if a feme covert, the wife of a freeman, trades by herself in a trade, with which her husband does not intermeddle, she may sue and be sued as a feme sole, and the husband shall be named only for conformity; and if judgment be given against them, she only shall be taken in execution. *Cro. Car.* 69. *Hestl.* 9. *Litl. Rep.* 31. *S. C.* 1 *Leon.* 131. 2 *Brownl.* 218. *S. P.*

If the wife of a freeman, who is a sole trader, contracts a debt and dies, and afterwards the husband promises to pay it, yet such promise is not sufficient to maintain an *assumpsit* against the husband, for as he was not originally liable, the subsequent promise was without any consideration. 1 *Sbrow. Rep.* 183.

A recovery suffered by *Baron*, and feme of the lands of the feme, shall as effectually bind the right of the feme by the custom of *London*, as a fine at common law. 1 *Rol. Abr.* 556.

An infant unmarried, and above the age of fourteen, may bind himself apprentice to a freeman of *London* by indenture, with proper covenants, which covenants, by the custom of *London*, shall be as binding as if he were of full age. *Moor* 134. 2 *Bulst.* 192. 2 *Rol. Rep.* 305. *Palm.* 361. 1 *Mod.* 271.

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If the indentures be not inrolled before the chamberlain within the year, upon a petition to the mayor and aldermen, &c. a *scire facias* shall issue to the master to shew cause why not enrolled; and if it was through the master's default, the apprentice may sue out his indentures; otherwise, if through the fault of the apprentice, as if he would not come and present himself before the chamberlain, &c. for it cannot be enrolled unless the infant is in court and acknowledges it. 2 *Rol. Rep.* 305. *Palm.* 361, and see 1 *Mod.* 271.

This custom does not extend to one bound apprentice to a waterman under twenty-one, for the company of watermen are but a voluntary society, and being free of that does not make one free of *London*. 6 *Mod.* 69.

By the custom of *London*, a tenant at will under the yearly rent of forty shillings, shall not be turned out without a quarter's warning, and such tenant paying above forty shillings yearly rent shall not be turned out without half a year's warning. 2 *Sid.* 20.

But a custom that a tenant for years shall hold for half a year after his term ended, is not good. *Moor* 8. pl. 27. *Palm.* 212.

By the custom of *London*, a creditor may, before the day of payment, arrest his debtor, and oblige him to find sureties to pay the money on the day it shall become due. *Hob.* 86. 1 *Vent.* 29. 5 *Mod.* 93. and see 1 *Rol. Abr.* 553.

If a contract be entered into by two citizens, and one of them, who is thereby obliged to pay a sum of money, dies intestate, his administrator shall be obliged to pay it in the same manner as if it were a debt by obligation. *Cro. Eliz.* 409. *Noy* 53. 1 *Rol. Abr.* 557.

If *A.* and *B.* are bound as sureties, for and with *C.* to *D.* and *D.* recovers against *A.* in *London*, and has execution against him, *A.* may there

there sue *B.* for contribution, *ut uterque eorum queratur pro rata*, according to the custom of *London*, and therefore where such action was removed in *B. R.* by writ of privilege, the same was remanded, because otherwise the plaintiff would be without remedy; for by the course of the law no action lies. 1 *Leon.* 166. *Moor* 136. *S. P.*

S E C T. VIII.

Of the Custom of foreign Attachment in London, and of the nature of the Debt or Duty which may be attached. See Chap. 4. Sect. 4.

BY the custom of *London*, if *A.* is indebted to *B.* and *C.* is indebted to *A.* *B.* upon entering a plaint against *A.* may attach the debt due from *C.* (who is called the garnishee) to *A.* and this custom of foreign attachment is to no other purpose but to compel an appearance of the defendant in the action, for if he appear within a year and a day, and put in bail to the action, the garnishee is discharged. 1 *Rel. Abr.* 551. *Carth.* 25. see *Cro. Eliz.* 713. 1 *Leon.* 52. 1 *Rel. Rep.* 106.

The garnishee may plead this custom of foreign attachment to an action brought against him by his creditor, but then the plaintiff may traverse the cause thereof, and that he was not indebted to him who attached it. 1 *Rel. Abr.* 551. *Cro. Eliz.* 598, 830.

Such

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Such goods cannot be attached, of which the party had no property at the time of the attachment. 1 *Rel. Abr.* 551.

So if *A.* be indebted to *B.* and *J. S.* a stranger takes by tort certain goods of *A.* as a trespasser, he cannot by the custom attach these goods in the hands of *J. S.* for the debt of *A.* because the property is out of *A.* at the time, and only a right in him.

A legacy cannot be attached in the hands of an executor by foreign attachment, because it is uncertain, whether after debts paid, the executor may have assets to discharge it. 1 *Rel. Abr.* 551. *Noy* 115. *S. P.*

If *A.* be indebted to *B.* by obligation, and *B.* is indebted by contract to *H.* and *B.* dies, and his administrator demands the debt upon the obligation of *A.* who promises him that if he will forbear him for a month, that he will pay him then, but he does not pay him accordingly, and after, *H.* brings debt in *London* against the administrator upon the contract (as he may there by the custom:) the debt of *A.* due by the obligation, may be attached in the hands of the administrator, for notwithstanding the promise broke, yet the debt continued due by the obligation, and a recovery upon the obligation will be a bar of the action upon the promise, in which all should be recovered in damages. 1 *Rel. Abr.* 551. 1 *Rel. Rep.* 106. *S. G.*

If *A.* lends *B.* one hundred pounds, to be repaid him upon the death of his father, and after the death of the father of *B.* this one hundred pounds is attached by force of a foreign attachment, and after *A.* brings an action upon the case against *B.* for this money, this foreign attachment will be a good bar thereof, though the custom be to attach debts, and this is an action upon the case in which damages only are to be

be given, because this is a debt, and he might have an action of debt thereupon; and therefore, in as much as this is well attached, he shall not defeat it by bringing an action upon the case.

1 *Rel. Abr.* 552.

If *A.* sells certain stockings to *B.* upon a contract, for which *B.* is to give ten pounds to *A.* and if he sells the stockings again before *August*, after that he shall give two pence more for every pair of the stockings; the ten pounds is attachable by foreign attachment, because an action of debt lies for it, but two pence for every pair of stockings is not attachable, because this rests only in damages, to be recovered by an action upon the case, and not by action of debt, because it is made payable upon a possibility. 1 *Rel. Abr.* 552.

If there are several accounts, &c. between *A.* and *B.* and *A.* dies, and his executor and *B.* submit to the award of *J. S.* and he awards that the executor shall deliver certain goods, of which *A.* died possessed, to *B.* and that *B.* shall pay the executor three hundred pounds, this money cannot be attached in the hands of *B.* for the debt of *A.* for upon the matter, the executor being liable to a *devastavit* ought to have remedy in his own right for the sum awarded. 1 *Vent.* 112.

If *A.* is indebted to *B.* who is indebted to *C.* and *B.* assigns the debt of *A.* to *C.* in satisfaction of his debt; now the debt due from *A.* is become the right property of *C.* and *B.* has nothing but in trust for *C.* and therefore it ought not to be attached for any debt of *B.* and upon the special matter, shewed the lord mayor ought to give relief. 2 *Jon.* 222.

In an action of debt for tobacco, in the destinet, a debt cannot be attached within the custom, in satisfaction thereof, because it does not appear of what value this tobacco was, so that it might

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might appear that the debt is but a satisfaction to the value, which cannot be supplied by a plea in bar made in another action against him, in whose hands the debt was attached. 1 *Roll. Abr.*

553.

A debt due by specialty may be attached by the custom of *London*, because the attachment may be pleaded if an action be brought for it in the courts at *Westminster*; but a debt recovered in any court in *Westminster* by a judgment, cannot be attached by the custom of *London*, because the party has then notice to plead it. 1 *Roll. Abr.* 552. 4 *Leon.* 240. *Cro. Elin.* 63. 1 *Leon.* 29, 264.

If *A.* is indebted to *B.* and *C.* is indebted to *A.* and *B.* brings debt in *B. R.* against *A.* pending this action, *B.* may affirm a plaint in *London* against *A.* for the same debt, &c. and attach the debt in the hands of *C.* for though a debt in *London*, for which there is a suit depending in *B. R.* cannot be attached, yet he that hath brought an action in *B. R.* may, notwithstanding, according to the custom, attach the debt of the party, for the debt in question in *B. R.* is not touched by this attachment. *Cro. Elin.* 593.

A. is indebted to *B.* and *C.* is indebted to *A.* by simple contract, *A.* dies intestate, and *B.* enters a caveat against his widow's taking out administration, pending which he enters a plaint in the sheriffs' court of *London*, against the archbishop of *Canterbury*, and thereupon attaches the debt due from *C.* after which the widow has administration granted to her, who brings an action against *C.* who insisted on the matter *supra*, and it was held that this pretended custom, in this case, was unreasonable and void, because the archbishop had no right to the debt, nor any means to recover it; besides hereby every creditor would be his own lawyer, and the goods of the intestate wasted without any remedy.

Carth.

Carth. 344. 5 *Mod.* 75, 93. *S. C.* 2 *Jon.* 165, 204. and see 1 *Rel. Abr.* 551, 906. *Cro. Eliz.* 410, 598. *Noy.* 53. *Dyer* 247.

Money paid to the sheriff of *Exeter*, in satisfaction of an execution in debt is not attachable in his hands. 1 *Leon.* 264.

A man may have money in his hands which is attachable, though it be not debt; as if he has money to keep, or if he finds the money of the debtor. Admitted. *Cro. Eliz.* 172.

A debt of record as upon a judgment, &c. cannot be attached by the custom of *London*, and says, that so it was holden in the case of Sir *John Parrot*, in *C. B.* And it was said by *Coke*, that such a debt could not be assigned upon the statute of bankrupts. 3 *Leon.* 240.

A man indebted in arrearages upon an *infirmal computaverunt*, in a sum certain, and promised to pay it at a certain day, but did not, and afterwards it was attached in *London*, by the custom, &c. in a new action brought for the arrearages in *B. R.* it was adjudged a good bar. *Arg. Rel. Rep.* 105.

Whether a debt upon a recognizance may be attached in *London*.

Part of a debt may be attached by the custom of *London*. *Per Warburton, J. Godb.* 196.

Attachment in *London* of a debt in *Middlesex*, is good. 2 *Shew.* 507.

An executor submitted to an award, and the arbitrators awarded, that the plaintiff should deliver to the defendant certain goods, and that the defendant should pay to the executor three hundred and fifty pounds; this money is not attachable in his hands, by any creditor of his testator, it being not a debt due to the testator, *tempore mortis sue*, and so not attachable as the testator's debt. *Vent.* 111.

A. is indebted to *B.* *B.* is indebted to *C.* and *D.* *A.* at *B.*'s request, gives a note to *C.* for the money due from *A.* to *B.* afterwards, *A.* let
D. at-

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D. attach the money as due to *D.* from *B.* and on the attachment *D.* got a verdict, and judgment. Decreed the money to *C.* and that *D.* might take his remedy at law, and should assign his judgment to the six clerks, &c. in trust for *A.* to reimburse him the money: *Fin. Rep.* 235.

On debt brought in *London* against the *Ham-brough* company, and they not appearing upon summons, and a *nihil* returned, an attachment was granted of debts owing to the company in the hands of fourteen several persons. *Per Cur.* We are not judges of the customs of *London*; nor do we take upon us to determine, whether a debt owing to a corporation, be within the custom of foreign attachment or not. This we judge and agree in, that it is unreasonable that a corporation's debt should be attached. If we had judged the custom unreasonable, we could and would have retained the cause; for we can overrule a custom, though it be one of the customs of *London*, that are confirmed by act of parliament, if it be against natural reason, but because in this custom we find no such thing; we will return the cause. Let them proceed according to the custom at their peril, if there be no such custom, they that are aggrieved may take their remedy at common law. We do not dread the consequences of it. It does but tend to the advancement of justice; and accordingly a *procedendo* was granted, *per North*, chief justice. *Windham* and *Ellis.* (*absente Atkins.*) *Mod.* 212.

A. owed *B.* two thousand pounds; *A.* borrowed two thousand pounds of *P.* to pay *B.* which sum *A.* was to receive of *C.* being the purchase money of lands in *Somersetshire* sold to *D.* but, before *A.* received any of the money, he paid the two thousand pounds debt to *B.* Afterwards, upon executing the conveyance by *A.* to *D.* he could not pay down ready-money, but gave *A.* two bonds, of one thousand pounds each, to be paid

paid in half a year. *A.* delivered these bonds to *P.* which *A.* by *P.*'s direction, assigned to *M.* to the use of *D.* Afterwards lord *H.* attached this money in the hands of *D.* for so much due by *A.* to him. *M.* having an interest in the bonds by the assignment, refuses to transfer that interest to *P.* the plaintiff; whereupon *P.* by bill, prayed relief against this attachment, and to have the money, and for *M.* to transfer his interest in the trust of the said bonds, &c. Decreed that *D.* pay the money to *P.* and *P.* upon payment, to deliver up the bonds to *D.* to be cancelled; and a perpetual injunction against lord *H.* and *B.* to stay proceedings on the attachment, or other proceedings at law for the money on the bonds; and *M.* to transfer his interest to the plaintiff. *Fin. Rep.* 299.

If *A.* is indebted to *B.* who is indebted to *C.* and *B.* assigns the debt of *A.* to *C.* in satisfaction of his debt; now the debt due from *A.* is become the right and property of *C.* and *B.* hath nothing but in trust for *C.* and therefore it ought not to be attached for any debt of *B.* and, upon the special matter shewed, the lord-mayor ought to give relief; *per Cur.* 2 *Jo.* 222, 223.

Foreign attachment has not any thing that sounds merely in damages, as covenant, &c. It lies not really of a debt contracted out of the jurisdiction; and, in *Brown's* case there was pleaded a custom in *Exeter* for foreign attachments of any debt, and do not say accruing within the city, and so naught; and so adjudged by the lord *Hale.* 2 *Show.* 373.

It was always the custom in *London* to attach debts upon bills of exchange, and a goldsmith's note, &c. if the goldsmith that gave the note, or the person to whom the bill is directed, lives within the city, without any respect had to the place where the debt was contracted. *Carth.* 26.

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The arbitrators made an award that *W. R.* should pay so much money on the second day of *January* (he having given a bond to perform the award) that was attached on the first of *January*; and the money awarded was taken upon that attachment on the second of *January*: and, *per Holt*, ch. j. this would have been a good plea in an action of debt brought upon the award; but not to an action of debt brought upon the bond of submission, because the bond is forfeited; and, when a bond is forfeited, it is not the money in the condition, but the money in the bond itself, which is attached. 3 *Salk.* 49.

S E C T. IX.

In whose hands, and at what time, goods or debts may be attached.

IF *A.* recovers a debt against *B.* in *London*, *B.* may attach this debt in his own hands for so much due to him. 1 *Rol. Abr.* 554. *Cro. Eliz.* 186.

By this custom a debt contracted without the jurisdiction of the city may be attached, if the debtor is found within the jurisdiction; for every debt follows the person of the debtor. *Cartb.* 25, 26. 1 *Vent.* 236. and see 1 *Rol. Abr.* 554.

An obligee before the debt is due by obligation cannot by the custom attach a debt for it, because he cannot affirm a plaint for the first debt before it is due. 1 *Rol. Abr.* 553. 3 *Leon.* 236. *S. C.*

But if *B.* is indebted to *A.* and *C.* is bound to *B.* but the day of payment is not yet come, *A.* may

A. may attach this debt in the hands of *C.* before it is due to *B.* 1 *Rol. Abr.* 553. 3 *Leon.* 236. and see *Cro. Eliz.* 184. 1 *Rol. Rep.* 105.

So if *A.* lends money to *B.* to be repaid upon the death of the father of *B.* and after an action is brought by *C.* against *A.* and after the father of *B.* dies, the money due by *B.* to *A.* may after be attached in the hands of *B.* though it was not due at the time of the plaint commenced against *A.* in as much as it became due before the time that by custom the process is to be granted against him, in whose hands it is attached 1 *Rol. Abr.* 553.

If a debt upon an obligation of a hundred pounds, conditioned for the payment of fifty pounds at a day, the defendant pleads that before the day of payment of the fifty pounds, it was attached in his hands by a creditor of the plaintiff, &c. and that after the day, upon a *scire facias* against him according to the custom, he paid it, this is a good bar of the whole, because the attachment being made before the day of payment, it became a debt to the creditor, and the obligee could take no advantage of a breach of the condition afterwards. 1 *Sid.* 327.

If a man recovers debt or damages in *B. R.* this debt cannot after be attached in *London*; for the inferior court cannot attach a debt in a superior court. *P.* 32. *El. B. R.* between *Kery* and *Bowyer*, *per Curiam*; and *Trin.* 32 *El.* after adjudged, and there is cited Sir *John Parrot's* case to be adjudged accordingly. 1 *Rol. Abr.* 552.

After an issue in an action of debt in *B. R.* the debt for which the action is brought cannot be attached in *London* for the cause aforesaid. *M.* 31. 32 *El. B. R.* the case of *Fenner* and *Samuel* is cited to be adjudged. 1 *Rol. Abr.* 552.

So after imparlance to an action of debt in *B. R.* the debt cannot be attached in *London* for the

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the cause aforesaid, *M. 31. 32. El. B. R.* between *Babington* and *Babington*, adjudged *per Curiam. 1 Rol. Abr. 552.*

If a writ of debt, returnable in *banco*, be purchased before the attachment, it cannot, by the custom, be attached. *1 Rol. Abr. 552.*

But otherwise it is, if the writ of debt be purchased after the attachment by *Covin* with an antedate. *M. 5 Jac. 1 Rol. Abr. 552.*

A. is indebted to *B.* and *C.* is indebted to *A.* and *B.* brings debt in *B. R.* against *A.* pending this action, *B.* may affirm a plaint in *London* against *A.* for the same debt, &c. and attach the debt in the hands of *C.* for though a debt in *London*, for which there is a suit depending in *B. R.* cannot be attached, yet he that brought an action in *B. R.* may notwithstanding, according to custom, attach the debt of the party; for the debt in question in *B. R.* is not touched by this attachment. *Cro. El. 593.*

W. was arrested by *latitat* for one thousand pounds on a bond. The money was brought into court; but before the return of the writ, an attachment issued in *London* against *W.* for divers sums; it was moved, that the money might be taken out of the court to satisfy the plaintiff, because *B. R.* had the priority of suit, but the court made a rule to have it examined, and that if it appeared that he was a debtor to those in *London*, before he became indebted to the plaintiff, that the money shall remain in court subject to the payment of their debts, and that the court should not be made a means to strip others of their just debts; and by *Williams J.* in case of priority of suit *B. R.* has always had the privilege and jurisdiction, and so it has been oftentimes adjudged. *Bulst. 217.*

There cannot be a custom for a foreign attachment, before there is some default in the defendant. *Vent. 236.*

If

If a suit be begun in B. R. or C. B. &c. no foreign attachment for a debt, &c. shall prevent the judgment of that court, nor shall it prevent the judgment of this court, &c. and therefore I confirm the decree made, and set aside the proceedings and judgment on the foreign attachment; *per* lord chancellor. 2 Chan. Ca. 233, 234.

A bill of *Middlesex* prevents an attachment as much as an original, because it is in lieu of one, and it is the foundation of the suit, and if laid to be *secundum consuetudinem curiæ*, it will be a barr. 2 Show, 374.

A judgment was set aside as irregular, and the money paid into the hands of the defendant's attorney; before he could carry it away, it was attached at the suit of A. on an action entered in the counter. *Per Holt*, chief-justice, let the plaintiff in the action in the counter attend; 'tis a trick. Comb. 427.

An obligee before the debt is due by obligation, cannot, by the custom, attach a debt for it, because he cannot affirm a plaint for the first debt before it is due. 1 Rol. Abr. 552.

But if E. is indebted to F. and G. is bound to E. but the day of payment is not yet come, F. may attach this debt in the hands of G. before it is due to E. Tr. 32. El. B. R. between *Daton* and *Selby*, said that the custom of *London* is so. But the court said, this is not laudable, nor to be allowed. 1 Rol. Abr. 553.

But in such case, if it should be pleaded, that such debt was attached by the custom, before the debt was due by the condition of the obligation, it ought to be specially pleaded, that by the custom, such debt may be attached before the day of payment by the condition of the obligation. Mich. 10. Car. B. R. between *Adler* and *Clapper*, *per Curiam*, upon a demurrer where the custom was alleged generally, as the use is in

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other cases for debts then due, and therefore the court inclined it was not good. *Intratur, Mich. 10. Rot. 328. Hill. 10. Car.* This being moved again, the court was of the same opinion. *1 Rol. Abr. 552.*

If *I.* lends money to *K.* to be repaid upon the death of the father of *K.* and after, an action is brought by *L.* against *I.* and after the father of *K.* dies; the money due by *K.* to *I.* may after be attached in the hands of *K.* though it was not due at the time of the plaint commenced against *I.* inasmuch as it became due before the time that, by the custom, process is to be granted against him to whom he is indebted, (or as Mr. *Danvers* has altered it) "in whose hand it is attached." *Trin. 11 Car. B. R.* between Sir *Nicholas Halls* and *Walker*, per Curiam, upon a demurrer upon a foreign attachment in *Exeter*, which is all one with an attachment in *London*.

1 Rol. Abr. 553.

A debt may be attached, by the custom, before it is due, but before it is due judgment cannot be given upon this attachment, that he shall have or retain it in satisfaction of his debt demanded before it is due; for thereby there should be an execution of this debt attached before it becomes due, which cannot be, for by the judgment it is put in execution presently. *Tr. 14. Car. B. R.* between *Pierce* and *Calcott*, adjudged upon a demurrer. *Intratur, Mich. 13 Car.*

Rot. 473. But note, it was objected on the other side, that this was a good custom, because the judgment is not that the debt attached shall be paid presently, but only that he that is plaintiff, shall have it in satisfaction of his debt presently, but to see it paid when it becomes due. *1 Rol. Abr. 552.*

If in bar of an action a foreign attachment is pleaded, that the custom is, that if any man brings his action against another for any debt, and upon a return made, that he *non est inventus*,

et quod nihil unde, &c. and thereupon surmises, that any other is indebted to the defendant in such a sum, and thereupon to pray process to attach the sum in his hands, and to defend, ita quod the defendant appears to answer the plaintiff, and the serjeant returns that he hath attached him to defend the sum in his hands, and the defendant does not appear at four courts after, &c. that judgment shall be to recover it in his hands, &c. this is no good custom, without a surmise that the stranger who is indebted to the plaintiff is within the jurisdiction of the court, and the return of the serjeant is not sufficient that he hath attached him to defend it in his hands, for perhaps the serjeant intends that he may attach the debt in his hands, though he be not within the jurisdiction of the court, and his return shall not bind the party, without an actual surmise thereof by the party himself. *Tr. 11 Car. B. R.* between Sir Nicholas Halse and Walker, adjudged upon a demurrer, where a foreign attachment in *Exeter* was pleaded, which was all one with the custom of *London*, and all customs there confirmed by parliament in the time of queen *Elizabeth* 1 *Rel. Abr.* 554.

The custom of *London* is, that if any plaint be affirmed in *London*, before &c. against any man, and it is returned *nihil*, if the plaintiff will surmise, that any man within the city is debtor to the defendant in any sum, he shall have garnishment against him for him to come in to answer, if he be indebted in the form as the other hath alleged, and if he comes, and does not deny it, then this debt shall be attached in his hands, &c. So note, that the plaintiff ought to surmise, that the other man who is indebted to the defendant, is within the city. 22 *E. 4.* 30. *Per Starkey*, the recorder of *London*; the custom so certified. 1 *Rel. Abr.* 554.

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A citizen of *London* was indebted to a foreigner upon bond, and the foreigner was indebted to the citizen upon a simple contract; the foreigner died, and upon oath made by the citizen, that his debt was a just debt, he levied a plaint in *London* against the executor of the foreigner; and upon four defaults recorded, he had judgment, and then he attached the debt in his own hands, finding fureties, that if the debt was not disproved by the executor within a year and a day, or the judgment reversed, that then he should be discharged of so much of the debt which he owed on the bond; the question was, whether this custom did extend to foreigners, as well as to citizens? it was not resolved. *Dyer* 196.

Goods were attached in the hands of the *Exeter* carrier, who is then privileged in the common-pleas, by reason of an action there depending; *per tot. Cur.* the attachment ought to be dissolved, and the privilege to all goods for which he is answerable to others. *Le.* 189.

S E C T. X.

Of the form of the Proceedings in a Foreign Attachment.

BY this custom the plaintiff must swear that the debt is *bona fide*, due to him, but it is not sufficient to alledge that he swore that the debt was a true debt by himself, or his attorney; for the attorney's swearing is not according to the custom. 1 *Rol. Abr.* 554. *Cro. Eliz.* 713. *2 Jon.* 406.

IF

If A. affirms a plaint against B. and upon *nihil* returned, it is surmised that C. hath money in his hands due to B. &c. and the money is attached in the hands of C. who appears upon the attachment, and pleads that he owes nothing to B. though this be found against C. and thereupon there is judgment against him, yet he shall not pay any costs, for there are no costs recoverable in a foreign attachment. *Cro. Eliz.* 172. 1 *Leon.* 321.

By this custom, if A. sues B. in London, &c. and C. is indebted to B. in the same sum, and the said C. is condemned there to A. according to the custom and judgment given against him accordingly, yet if no execution be sued against C. A. may resort to have judgment and execution against B. his principal debtor, and B. may sue C. for his debt, notwithstanding the unexecuted judgment. 1 *Rel. Abr.* 555.

In bar of an action brought in B. R. if the defendant pleads a judgment in a foreign attachment in bar, and alleges the custom to be, that if the plaintiff in the court hath process against the defendant, and upon a *nihil* returned, makes a surmise that B. is indebted in so much to the defendant, and upon his prayer to attach it in his hands by process, and he does it accordingly; and if the defendant makes default at four courts after, that by the custom, at the last of the said four courts, the plaintiff may pray process against B. to come in and shew cause wherefore the judgment should not be against him at the next court after, and when he comes to apply this custom to his case, he shews that there were four defaults, and that at the fourth default the plea was continued for several courts, and then process went against B. and then after judgment against him, this is not warrantable by the custom, inasmuch as he shews by the custom it ought to be

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at the next court after the four defaults. 1 *Rol. Abr.* 555. See *Godb.* 401. *Latch.* 228. 1 *Vent.* 236. *Moor* 576. *pl.* 779.

If in debt the defendant pleads that J. S. entered a plaint, &c. against the plaintiff in *London*, and upon process against him, *non est inventus* was returned, and thereupon a suggestion was made that he had so much money in the hands of the defendant, and that the defendant was attached by the said money, this is an ill plea, for it ought to have been that the plaintiff was attached by so much money in the defendant's hands, for so is the custom. *Carib.* 282.

After a *dilatur* entered by the garnishee in the sheriff's court, which is in nature of an imparlance, he cannot plead to the jurisdiction of the sheriff's court. *Carib.* 25, 26.

The custom of *London* is, that where the goods of the defendant are attached in other hands, because the defendant is returned *nihil* in plaint of debt, whereby the plaintiff upon the circumstance of the attachment recovers the goods attached, and has execution, that there, if the defendant would dissolve the attachment, he ought to come within a year, and put in surety to answer the action, or, if he cannot find surety, then to render his body to prison. *Quod Nota. Br. London, pl.* 1.

A suit was in *Exeter* by M. against H. and the said H. was returned *nihil*; and it was surmised that T. the plaintiff, had certain monies in his hands due to H. whereupon this money was attached in T.'s hands; T. pleaded *nihil debet* to H. upon which M. demurred, and adjudged for him, because he ought to have pleaded that he owed nothing to H. nor had any money in his hands due to H. upon which T. brought error, because it is a good plea, and the plaintiff was to be barred and not to recover, and that so is the common pleading in *London*; and the judgment was reversed. *Cro. E.* 172. *pl.* 13.

L. Brought

L. Brought debt against H. who pleaded, that J. in *London* affirmed a plaint against A. and by the custom there attached the debt demanded, in the hands of H. and alleged the custom, that the plaintiff should swear the debt, but the record is, that the debt was sworn by a stranger; this was held incurable, and so a judgment in *C. B.* was reversed. *Cro. Eliz.* 712. *pl.* 36.

The custom is, that if any one is indebted to another, if he will enter his suit or plaint in the counter of the sheriff of *London*, that a precept shall be awarded to a serjeant at mace, to summon the defendant, and if he return *nihil, viz.* that he has nothing within the city by which he may be summoned, & *non est inventus*, and if he be solemnly called at the next court, and makes default, that then, if he can shew that the defendant has goods in the hands of one within the liberty of the city, that the said goods shall be attached, and if the defendant makes default at four court days, being solemnly called, then if the plaintiff will swear his debt, and put in bail for the goods, that if the debt be disproved within a year and a day, or the judgment reversed, that he shall have judgment for the said goods. *Godb.* 400, 401.

It was ruled, that if A. brings debt in *London* against B. and attaches goods of B. in the hands of C. from whose possession the goods are not removed; and B. by certiorari brings the cause into *B. R.* and puts in bail, the attachment is at an end, and C. ought to deliver the goods to B. which, if he does not, B. may have *trouer* or *replevin*; but *B. R.* will not compel him to deliver them, because he is no party in court, and all things are as if there never had been an attachment. *12 Mod.* 213.

S E C T. XI.

Pleadings in Foreign Attachments.

THE custom of *London* was in issue, and the trial thereof there, and exception was taken, that allowance thereof ought to be shewn of record; and the opinion of the justices was, that he is not bound to shew allowance thereof another time by record; *quod nota*, that of custom there needs no allowance. *Br. Customs, pl. 42.*

In debt the defendant pleaded a foreign attachment; the plaintiff replied, that he was not indebted to the defendant in any sum; and this was held a good replication, because it is issuable, whether he was indebted or not; for if he was not indebted, then he could not be attached. *Cro. Eliz. 598.*

In *detinue* for goods the plaintiff declared, that he delivered them to re-deliver *quando requisitus*, &c. but that defendant had not delivered them, *Licet Sæpius requisitus*, &c. the defendant pleaded the custom of foreign attachment in *London*; whereupon they were recovered there against him. Plaintiff demurred; 1st, because the cause of the debt, on which the attachment was, is not shewn; nor is it averred expressly, that there is any debt; to which *Stone*, for the defendant replied, that the cause of the debt shall not be shewn, because it is only inducement, and not traversable. 2dly, Exception was, that the custom is, if he swears his debt to be true, &c. but her it is alleged, that he swore his debt, but did not say, that he swore it a true debt. *Stone* replied, that this shall be intended. 3dly, That it

it is not shewn that the debtor was within the city at the time. 4thly, The custom is, that if the sheriff returns that the debtor *nihil habet*, by which to be summoned, and that he cannot be found within the city, and be demanded at the next court, that then, if he does not come, foreign attachment shall be awarded; but in this case, none of these points were averred, *viz.* that the sheriff returned, &c. *Stone* answered, that this was true, and therefore the judgment is erroneous, but that we cannot take advantage of it, being strangers, &c. At length the court seemed of opinion against *Stone* in all points; *sed Adjournatur.* *Lat.* 208, 209.

A foreign attachment, in an inferior court, was pleaded in this manner; that by custom time out of mind whoever levied a plaint *pro aliquo debito*, against another upon surmise, that a stranger was indebted to the defendant, that process issued forth to attach, &c. The court said, that they need not express that the debt did arise *infra jurisdictionem*; for perhaps it did not. And yet if an action be brought in such case, and the debt be laid to be contracted *infra jurisdictionem Curiae*, if the defendant will plead to it he may; but he shall never be admitted to assign for error in fact, that the debt did arise *Extra jurisdictionem Curiae*. But if he had tendered such a plea in the inferior court upon oath; then, if they had refused it, it would have been error. Wherefore it is enough in this case to say, that a plaint was levied *pro aliquo debito infra jurisdictionem*, without averring, that the debt did arise within the jurisdiction. *Vent.* 236.

Debt on a bond; the defendant pleads, that the plaintiff being indebted unto J. S. he made an attachment of the said money in his hands; the plaintiff demurs; two exceptions were taken, because, first, it does not appear that the debt arose within the jurisdiction. 2dly, That the attachment pleaded was made before the money

was payable by the bond. It was answered as to the first, that there is a great difference where a man is plaintiff in an action, and the defendant here, who was a third person, who is no ways privy, and could not allege, that he that is plaintiff here, was a defendant below; and the precedents are all without it, as may be seen in *Coke's Entries, Tit. Debt.* And as to the other matter, it is *debitum in presenti*, though *solvend. in futuro*; and it may be attached before it is payable, though it cannot be condemned till after. 2 *Shew. 506.*

In case of foreign attachment, the garnishee cannot plead to the jurisdiction after an imparlance; for an imparlance is an admission of the jurisdiction; *per Holt, Ch. J. Comb. 109.*

Upon a foreign attachment, the garnishee pleaded to the jurisdiction of the sheriffs' court; but it was over-ruled. *Cartb. 25.*

By the custom of a foreign attachment of *London*, if A. sues B. in *London*, &c. and C. is indebted to B. in the same sum, and the said C. is condemned there to A. according to the custom, and judgment is given against him accordingly; yet if no execution be sued against C. A. may resort to have judgment and execution against B. his principal debtor, and B. may sue C. for his debt, notwithstanding the unexecuted judgment. *D. 7 E. 6. 82. 72.* by *Brook*, recorder of *London*, this certified to be the custom of *London*. 1 *Rol. Abr. 555.*

In bar of an action brought in *B. R.* if the defendant pleads a judgment in a foreign attachment in bar, and alleges the custom to be, that if the plaintiff in the court hath process against the defendant, and upon a *nihil* returned, makes a surmise that B. is indebted in so much to the defendant, and upon his prayer to attach it in his hands by process, and he does it accordingly; and if the defendant makes default at four courts after that, by the custom, at the last of the said four courts,

courts, the plaintiff may pray process against B. to come in and shew cause wherefore the judgment should not be against him at the next court after; and when he comes to apply this custom to his case, he shews that there were four defaults, and that at the fourth default the plea was continued for several courts, and then process went against B. and then after judgment against him; this is not warrantable by the custom, inasmuch as he shews, by the custom, it ought to be at the next court after the four defaults. *Trin. 11. Car. B. R.* Between Sir Nicholas Halls and Walker, per Curiam, upon demurrer adjudged. 1 *Rol. Abr.* 555. for bar against the one of all, or of parcel, is good against both; for such record against the one, is as strong as if the one had released, *quod nota.* *Br. ditta. pl. 100.*

Debt by T. C. and R. C. upon an obligation against R. D. of thirty two pounds, and as to eighteen pounds a parcel, &c. he pleaded that M. brought debt in London against the said R. C.; of eighteen pounds, who was returned *nihil*, by which eighteen pounds parcel of thirty-two pounds, was attached in the hands of the defendant, as the debt of the said R. C. by the custom, which is where the defendant has divers debtors, &c. and is returned *nihil*, that he shall attach it, and have execution, &c. See the pleading of this foreign attachment, by the custom of London. *Libro Intra.* for it is illy pleaded here, and because he alleges the custom to be divers debtors, and in the subsequent shews but one debtor, therefore *per Judicium*, the plaintiff recovered; *quod nota*, but it was held by the justices, sergeants, and apprentices, that if the custom had been well pleaded, that this had been a good barr, though the action be brought by R. and T. and the attachment was made as of debt due to R. only; for in debt to two, the one of them may discharge it intirely by his release, acquittance, or conuance in court of record, &c.

In

In debt by A. against B. the defendant said, that J. S. brought writ of debt in *London* against A. the now plaintiff, of one hundred and eighty pounds, which was returned *nihil*, and he made default, whereupon after four defaults recorded, J. S. surmised, that B. the now defendant was indebted to A. the now plaintiff in the like sum now in demand, and prayed garnishment against the now defendant, and had it and pleaded the custom of *London*, of foreign attachment certain; whereupon it was awarded. that J. S. recover the sum against this defendant, and that he be discharged thereof against the now plaintiff, and that such recovery and judgment shall be a barr against the first debtor, as this plaintiff then was; judgment *Si actio*. The plaintiff replied, that there was no such custom in *London*, and thereupon it was wrote to the mayor and aldermen to certify the custom, who certified as above, and further, *viz.* that after judgment and execution had of the sum attached, the defendant shall be discharged of this sum against the first debtor; whereupon the plaintiff demanded judgment, it being now certified in effect, that there was no such custom, that judgment only shall bind without execution. *Vavisor* alleged, that this was a *joofail*, and that no such custom is no plea, inasmuch as the plaintiff does not deny but that such a judgment was given in *London*, and consequently the record being in force, he shall be bound by it, and shall not avoid it by plea, but shall be put to his writ of error; and that *Brian* said, that he has failed of his record here; and by him and *Choke*, and *Hussey*, the plea of the recovery is not good without a custom, and therefore the plaintiff may traverse the custom, and the rather because it arises upon a custom, and not on the common law, and divers cases put there, that if the matter had passed upon matter at common law, and erroneously, that in such case

case the record is good and pleadable, so long as it stands in force, and the party shall not avoid it by plea, but by writ of error, but *e contra*, where it arises upon custom, there he may avoid it by plea, that no such custom; but *Catesby* and *Townsend* held *e contra*. But *Brook* says, that the best opinion seems against them, and cites 21 *Edw. 4. 67. Br. Barre. pl. 90.*

After debt brought, the plaintiff attached in *London* a debt due by another man to the defendant, and had judgment to recover; adjudged a good bar to the action for so much. *Mo. 598: pl. 820.*

Whether an attachment made of debt in *London* may be pleaded in bar of a *scire facias*, upon a recognizance in this court; it hath been overruled in law, it cannot. *Toth. 115.*

Debt by an administratrix upon a bond of twenty-six pounds, made to the intestate. The defendant pleaded, that he brought debt of thirty pounds against the plaintiff, by the name of administratrix, to her husband in *London*, and that upon *nihil* returned, the debt was attached in his own hands; it was adjudged no plea, because *non constat* by the bar, that the debt recovered in *London*, was the testator's debt, but only that she was sued by the name of administrator, which she might be for her own debt, and then the intestate's debt cannot be attached for her proper debt, and it is not shewed that the debt in *London* was by specialty, otherwise it is not demandable against an administrator, besides the judgment in *London*, was *de bonis propriis*, which cannot extend to goods of the intestate's. Adjudged for the plaintiff. *Gro. Eliz. 843. pl. 29.*

Debt upon an obligation; the defendant pleads a foreign attachment in *London*, and the plaintiff demurs, and the exceptions were, first, that

that the defendant had attached the monies in his own hands, by way of retainer, and so the custom unwarrantable. 2dly, It appeared that judgment was given in the mayor's court, by default of him in whose hands the money was attached; and it appeared that the defendant, which brought the action in *London*, and he in whose hands the attachment was made, and that made default, was the same person; and it is a contrariety, that the same person should appear and not appear, and a prescription for that is nought; and the custom is in *London*, that the recoverer in *London* ought to find sureties, that if the debt be discharged within a year and a day, then to pay the money, and it did not appear by the record that he found sureties, which was an incurable fault, and so adjudged by the court, *Brownl* 60.

Debt upon bond conditioned to pay fifty pounds before such a day; the defendant pleaded the custom of *London* of foreign attachment, (*viz*) that where a man is indebted to another, and that debtor hath money due to him from one in *London*, that the creditor may attach it before it is due to him, and that, such a creditor of the now plaintiff did attach fifty pounds in the defendant's hands before it was due to the plaintiff, and gave security, according to the custom, to repay the debt, if it should be disproved within the year and a day, &c. and that on such a day (which was after the day in the bond) he paid the fifty pounds to the creditor, upon a *scire facias*, brought against him according to the custom, &c. and upon a demurrer, it was insisted that it is not a good custom to attach money before it was due, but adjudged, that it was; for though it might be attached as a debt, it could not be levied before it was due; and so the custom was laid, *Sid*, 327.

Assumpsit

Assumpsit by administrator upon indebtedness for thirty pounds for wares sold by the intestate, the defendant pleaded that after the intestate's death, and before administration granted, he affirmed a plaint in London against the archbishop of Canterbury (to whom the granting the administration belonged) in trespass on the case, or assumpsit of the intestate to the defendant for thirty pounds *mutuo dat'* by the defendant to the intestate, and upon process against the archbishop the return was, that *nihil habet nec est inventus*, &c. and then shewed the custom of London of foreign attachment, and that himself owed the intestate thirty pounds which he had in his hands, and prayed attachment of the said monies in his hands according to the said custom, and alleged the condition, proceedings, and judgment in good form, as usual in such case, and then concluded judgement *si actio*. But it being shewn, that the custom is alleged, that if the debtor dies intestate, and a plaint be affirmed against the administration, and if process against him be returned, that *nihil habet nec est inventus*, &c. that this custom is not pursued in the plaint affirmed against the archbishop, and then the judgment founded upon this custom is void; *quod fuit concessum per tot. cur. Raymond absente* and resolved, that the defendant's plea was insufficient, and that the judgment upon the foreign attachment was not any estoppel to the plaintiff here, he not being a party thereto, and judgment for the plaintiff. 2 Jo. 166.

If money be attached and paid thereon, and afterwards the original creditors sue for the same, if the attachment happens to be ill pleaded, or otherwise avoided, the party must pay the money over again, and has no remedy neither in law or equity. 2 Show 374.

In assumpsit, evidence was given, that the debt was attached by the custom of London before the action

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action brought, and condemnation had there before pleaded. It was argued that this should relate to defeat the action; but it was ruled that if an attachment and condemnation be before the writ purchased, it may be given in evidence on the general issue, because that is an alteration of the property before the action brought; but if the attachment only be before the writ purchased, it ought to be pleaded in abatement of the writ, and if the condemnation be after the action commenced and before the plea pleaded, then it may be pleaded in bar, but shall not be given in evidence on non assumpsit; for the property is not altered by the condemnation. *1 Salk 280.*

In pleading a foreign attachment, it must be that the defendant (in the action in *London*) was attached by the money in the garnishee's hands; and not that the garnishee was attached by the said money. *Carth. 282.*

We cannot take notice of a judgment upon the custom of foreign attachment in *London*, without the custom be specially shewn. *Per Holt, C. J. 12 Mod. 407.*

Note, that it was agreed for law, that a debt in *London* upon a concessit solvere, by the custom; the count shall be, *quod pro merchandisi sibi prius venditis concessit solvere* ten pound, so that the merchandise ought to be rehearsed; and yet the merchandise is not traversable, as it seems. *Br. London, pl. 15.*

Where the custom is in issue at *Westminster*, or elsewhere, if the party will have it to be tried by certificate of the city, he ought to surmise, that the city is an ancient city, and that there has been a custom time out of mind, that where their custom is in trial in any courts of the king, that it shall be certified by the mayor and aldermen; by the mouth of their recorder; for if he does not make such surmise, it shall be tried by the country, as other matters in fact are. *Br. Trials, pl. 26.*

In a writ of entry sur disseisin brought in C. B. the defendant pleaded, that the house in demand is within the city of London; and that the said city is *antiqua civitas*; and that king Henry 3d. *Concessit civibus civitatis predictæ. Quod non implacitentur de terris et tenementis suis &c. extra muros civitatis predictæ.* and further said, that he himself is *civis London, &c.* and demanded judgment of the writ; Note, in the pleading before, the Tenant said, *et illis rectum teneatur intra civitatem prædictam secundum consuetudinem civitatis prædictæ.* and to this plea, exception was taken, because that the tenant doth not shew before whom, by their custom, they ought to be impleaded; it was the opinion of the whole court, that the tenant ought to have shewed, that the citizens for their lands ought to be impleaded in the hustings, &c. and the general words in the plea, *viz. sed illis rectum teneatur intra civitatem prædictam secundum consuetudinem civitatis prædictæ.* did not supply the defect aforesaid, after it was awarded by the court, that the tenant answer further, &c. 3 Leo. 148. pl. 197.

The customs of London are only triable by the mayor and aldermen, by the mouth of the recorder, if it be not a matter in which the corporation of London is a party. The customs of other corporations are triable by the country, if they be denied. *Jenk. 21, 22.*

The judges of every place are supposed to have knowledge of the laws of the place whereby they do judge, and to have customaries among them; and therefore, in suits of their own courts, do determine them, as the judges of the common law do in the king's courts judge the general customs of the whole kingdom, being the common law; and so in London, by special privilege, they certify also their customs of this nature into B. R. which other towns do not, and their customs, even those that are local laws, are triable by jury, if

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if they come to issue in the king's courts, and agreeing with this was found and shewed a precedent, *Mich. 37, 38 Eliz. Rot. 418. in London, Bilford, and Law*, in an action upon the case for certain parcels of plate, and the issue was, whether the custom of *London* was, that there was a common market in *London*, for all goods in all open shops, all days, except Sundays and holy-days, from the sun rising to the sun set; and concluded, *et hoc parati sunt verificare, ubi et quando ac prout curia consideraverit*, and then the defendants made their surmise for the trial of their custom by the mouth of their recorder, and prayed a writ accordingly; and it was granted, returnable in *Trinity term*, and continued *per non misit breve* till *octabis Mich.* and then it is entered, that the conclusion of the defendant's plea, ought to have been; *et de hoc ponit se super patriam*; whereupon the plea was so made, and issue taken, and upon venire-facias to the sheriff of *London*, found for the plaintiff, and had judgment; *per Hob. Cb. Ji Hob. 87*.

In laying the custom of *London* as to taking apprentices, he must declare, that he is *civis*, as well as *liber homo*. 2 *Bulst.* 193.

C H A P. IV.

Of the nature, jurisdiction, practice and proceedings of the several courts in *London*.

Majestad,

THE various opinions concerning the antiquity of the commonalty of this city's having a share in the government thereof, have occa-

occasioned warm disputes between the advocates for the aldermen and commons, but seemingly to very little purpose; for instead of determining on either side, matters are as much embarrassed as ever, we shall therefore endeavour to come as near the origin of the same as we can.

That the government of *London* by aldermen is of *Saxon* origin, is almost demonstrable, by the charter of *Henry* the first, granted to the city about thirty-five years after the conquest; wherein all strangers are expressly commanded to pay no custom to any person, save to the owner of the soke, or his deputy: That the owner of the soke, or ward, was the alderman, it seems, is beyond dispute, but that the government of the city was not vested in the aldermen exclusive of the commons, it seems, doth in some measure appear by the said charter; for as the latter were thereby impowered to choose their own sheriff and justiciary, it is not to be questioned, but they were a part of the city legislature.

The common council men at first returned being only two for each ward, the city commons thought it a number very insufficient to represent their numerous body; wherefore, in the year 1347, it was agreed, that each ward of the city should choose a number of common-council-men according to its dimensions, but none to exceed twelve, nor any less than six; which has been since increased to the present number.

The city of *London* being divided into twenty-five wards, and they into two hundred and thirty six precincts, each thereof send a representative to the common council, who is elected after the same manner as an alderman, only with this difference, that as the lord mayor presides in the wardmote, and is judge of the poll at the election of an alderman; so are the aldermen of the several wards in all respects the same at the choice of common-council-men.

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The several parts which compose the city legislature, very much resemble those which constitute that of the kingdom; for as the King is the chief estate of parliament, so is the lord mayor of the common council; and as the houses of lords and commons are subordinate to the former, so are the aldermen and common council-men to the latter; but the three estates of the national representative enjoying separately the right of the negative, that belonging to the common council of the city is only vested in two, *viz.* the aldermen and the common council-men.

S E C T. I.

Of the Court of Common Council.

THIS court, as already observed, consists of the lord mayor, aldermen and representatives of the several wards; and being the city legislature, make by-laws for the good government thereof; they assemble in Guild-hall, as often as the lord mayor, by his summons, thinks proper to convene them; they annually select from among themselves a committee of six aldermen and twelve commoners, for letting the city lands, to which end they usually meet at *Guild-hall* on *Wednesdays*. They likewise appoint another committee of four aldermen and eight commoners, for transacting the affairs belonging to the benefactions of *Sir Thomas Gresham*, who generally meet at *Mercers-hall*, at the appointment of the lord mayor, who is always one of the number; they also, by virtue of a royal grant, yearly appoint a governor, deputy and assistants, for managing the city lands in *Ireland*; they have also a right of disposing

ing of the offices of town clerk, common-searjeant, judges of the sheriff's court, common crier, coroner, bailiff of the borough of *Southwark*, and city garblers.

S E C T. II.

Of the Court of Lord-Mayor and Aldermen.

THE court of lord-mayor and aldermen is a court of record, wherein is lodged a great part of the executive power, whereby all leases, and other instruments that pass the city seal, are executed; the assise of bread ascertained; contests relating to water-courses, lights, and party-walls, adjusted; and the city-officers suspended and punished according to the notoriety of their several offences.

The said court has not only a power of electing annually eleven over-seers, or rulers of the fraternity of watermen; but likewise a right of fixing their several taxes, with the approbation of the privy-council; and also a right of disposing of most of the places belonging to the city-officers.

S E C T. III.

Of the Court of Husting.

AS this court is of a *Saxon* origin, and the most ancient in the kingdom, so is its name a *Saxon* compound of *hus* and *ding*; the former implying a house, and the latter a thing, cause,

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cause, suit, or plea; whereby it is manifest, *husting* imports a house or hall wherein causes are heard and determined; which is farther evinced by the *Saxon Dingere*, or *Thingere*, an advocate or lawyer.

This, which is a court of record, and the supreme judicature of the city of *London*, and weekly held on *Tuesdays*, was originally established for the preservation of the laws, franchises and customs of the city, and therein presided as judges, the principal magistrates; as at present do the lord mayor and sheriffs, who are assisted by the recorder upon all causes of consequence, in this court two sorts of causes are pleadable, *viz.* pleas of land, and common pleas, distinctly; for one week pleas merely real are held, and the next, mixed actions are decided; here deeds are inrolled, recoveries passed, writs of right, waste, partition, dower and replevins determined.

In the hustings of a plea of lands are pleaded writs of right patent, directed to the sheriffs of *London*, in which writs there is this process, by custom of the said city, *viz.* the tenants shall first have three summons at three hustings of a plea of land next ensuing after the livery of writs, &c.

Writs.

And after the three summons as aforesaid, three *essoins*, at three other hustings of a plea of land then next ensuing; after the third *essoins*, and the tenants making default, process shall be made upon them by a grand cape or petit cape, after the manner of an appearance and other process at common law.

Summons.

And if the tenants shall appear, the demandants shall plead against them in the nature of what writ they will (except certain writs which are pleadable in the hustings of common pleas, as is afterwards declared) without making protestation to sue in the nature of any writ.

And

And the tenants shall have the view and shall be effoined after the view as at common law, and by the custom of the city, the tenants shall have an effoin after every appearance.

And though such writ be abated after the view by exception of joint tenancy, &c. and other such writ be revived, the tenants by the custom of the city shall have the view in the second writ, notwithstanding the view before had, and if the parties plead to the judgment, judgment shall be pronounced by the recorder's mouth. Observe, six aldermen at least were wont to be present at the pronouncing every such judgment.

And every beadle of the city, by the advice of Jury, his alderman, shall summon twelve of the best and most substantial freeholders in his ward against every husting of a plea of land, to come to the Guild-hall, for to pass in an inquest, if need require, in behalf of the rest of the freeholders of the said ward.

And if the parties plead and descend to an inquest, then shall the inquest be taken of the freeholders in the same ward where the said tenements are, and also of other three wards next to the said tenements, so that forty sufficient men of the said ward where the said tenements are, be sworn of the inquest, if there be so many.

No damages by the custom of London are recoverable in any such writ of right patent, and &c. the inquest may pass the same day by such common summons of the beadle as aforesaid, provided the parties be at issue and the jurors come, otherwise process shall be made to cause the inquest to come at another hustings of a plea of land, by a precept from the mayor directed to the sheriffs, and herein the sheriffs, by the command of the mayor, are to be the officers to serve the writs, and to make execution thereof, notwithstanding the original writ be directed to the mayor and

H

sheriffs

Attornies. sheriffs jointly. Observe that as well the tenants as the demandants may make their attornies in such pleas.

Inquest on the mere right. If the demandants plead against those tenants the nature of a writ of right, and the parties descend to an inquest upon the mere right, then shall the inquest be taken of twenty four after the manner of a grand assise, according to the custom of the city, provided that six be of the ward where the tenements be, if there be so many of the ward empannelled in the inquest of twenty-four.

Vouch to warranty. The tenants in all such writs may vouch to warranty within the said city, and also in foreign country, if the vouchees have tenements within the city.

Removal of the record. And if the tenants in such a writ do vouch to warranty in a foreign country, in which case process may not be made against the vouchees by the law of the city, then they shall be made to bring the record before the justices of the common pleas at the suit of the demandant, and there process shall be made against the vouchee; and when the voucher shall be ended in the same bench, then shall all the plea be sent again to the hustings, there to proceed in the plea according to the custom of the city, &c.

Foreign plea. And likewise if the tenants in such writs plead in bar, by a release bearing date in a foreign country, or plead any other foreign matter which may not be tried within the city, then the demandant shall bring the process into the king's bench, to try the matter as it is alledged; and according as it is found, the plea shall be sent back into the hustings, there to be proceeded as the case requires, and all the time the plea shall cease in the hustings.

Error. If erroneous judgment be given in the hustings before the mayor and sheriffs, it shall be reversed by commission out of the chancery directed to certain persons to examine the record; or if erroneous

neous

neous judgment be given before the sheriffs in London, a writ of error may be sued before the mayor and sheriffs in the hustings. Observe that the summonses which are made to the tenants in such writs of right patent, may be made two or three days, or the day next before the said hustings.

In the hustings of the common pleas, are pleadable these writs following, *viz.* writs of *Ex gravi querela*; for to have execution of the tenements out of the testaments which are inrolled in the hustings; writs of dower *Unde nihil habet*, writs of *Caveat* of customs and services, instead of *Cessavit*, writs of *error of judgments* given before the sheriff, writs of *waste*, writs *de facienda partitione* between copartners, writs of *Quid juris clamat, et per que servitia* and other writs, which are closed and directed to the mayor and sheriffs; and also all *Replegiaries* of goods, and distresses wrongfully taken, are pleadable before the mayor and sheriffs in the same hustings, of pleas by plaint without writ.

Observe—that the sheriffs are ministers to execute the office, and serve all the writs and replegiaries, by a precept from the mayor directed to the said sheriffs; the process in which writs is as followeth.

In a writ of *Ex gravi querela*, warning shall be *Ex gravi* given to the tenants two or three days before the *querela* hustings, or in the morning before, as in a plea of land; and so it shall be done in all other summons belonging to the said hustings.

If warning be given and testified by the sheriff, or his minister, the tenants may be effoined once; and if the tenants make default, and the warning aforesaid be testified, then shall the grand cape be awarded, and if they appear, they may be effoined after the view; and thereupon all other process shall be made fully, as it is said as

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in a writ of right patent in the huffings of the pleas of land,

Writ of
dower.

In a writ of dower, *Unde nihil habet*, the tenants shall have at the beginning three summons, and an effoin after the three summons and afterwards shall have the view, and after the view, an effoin; and the tenants in the same writ of dower shall have the view, notwithstanding they enter by the same husband of the demandant, altho' the husband died seised.

Also the said tenants may vouch to warranty, and be effoined after every appearance, and also other process shall be made, as in a writ of right in the huffing of a plea of land.

If the demandant recover dower against the tenants by default, or judgment in law, in such writ of dower, and the same woman demandant shall alledge in court of record, that her husband died seised, then the mayor, by his precept, shall give commandment to the sheriffs, that they summon an inquest of neighbours where the tenements are, against the next huffings of common pleas, to enquire whether the husband died seised, and of the value of the tenements, and the damages shall be enquired of by the same inquest.

Writ of Ga-
valet.

In a writ of *Gavalet*, the tenants shall have three summons, and three effoins, and shall likewise have the view; they may vouch to warranty denizen and foreigner, and they shall be effoined, and must enter their exceptions, and all other process must be made as before is declared in a writ of right patent in the huffing of a plea of land; saving that if the tenant make default, then the demandant shall have judgment to recover, and to hold for a year and a day, upon condition that the tenant may come within the same year and a day next ensuing, and agree for the arrearages, and find such sureties as the court shall award,

to pay the rent afterward, and then shall have again his tenements : within which year and a day the tenant may come and cause the demandant to come into court by a *scire facias*, and have again his tenements, doing as aforesaid.

After the end of the year and the day, as afore- *Scire facias.*
said, the demandant shall have a *Scire facias* against the tenant, to come and answer, if he has any thing to say, wherefore the said demandant ought not to hold the tenements quietly to himself and his heirs for ever. And if the tenant do not come, or if he do come, and can say nothing, and then the judgment shall be, that the said demandant shall recover the tenements quietly for ever, according to the judgment called, *Sherrford*, by custom of the city of *London*.

In a writ of *Waste*, process shall be made against *Writ of*
the tenants by summons, attachments, and dis- *waste.*
tresses, according to the statutes thereof made ; and if the tenant come and plead, then he shall have an effoin, and so after every appearance; but if he make default at the grand distresses, then there shall be a commandment to the sheriffs, by a precept from the mayor, that the sheriff shall come to the place wasted, and shall enquire of the waste and damages according to the statute, and return the same at the next hustings of common pleas, and the plaintiff shall recover the place wasted and triple damages by the statute.

In a writ of error of judgment given in court before the sheriffs in actions personal, &c. the mayor shall make his precepts to the sheriffs, to bring the process and record at the next hustings of common pleas, and warn the parties to be there to hear the record.

And after the record and process be in the hustings, altho' the defendant come not at the warning, but make default, the errors shall be

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assigned, and there the judgment shall be affirmed or reversed, as the law requireth.

Replegiare. In a writ of *Replegiare* or *Replevin* the process is thus: if any man take a distress within the said city, he who owneth the goods may come to one of the sheriffs, and shall have an officer at the command of the court, to go to the party that took the goods; and if he may have the view, to appraise them by two men, and then plaint shall be made in the sheriffs paper office.

And the said party shall bring two sufficient securities to return the goods, in case the same be awarded.

And the parties shall have a day prefixed at the next hushings of common pleas, and the sheriff shall make a bill containing the matter of the plaint, and shall bring the said bill to the said hushings, and cause it to be put upon the file, and the parties shall be called for: at which day the one or the other, may be effoined by a common effoin

At what time soever the plaintiff makes default, it shall be awarded that the avowant keep the goods; and such award according to the custom of *London*, shall be made three times, and after that it shall not be reprisable; and if the avowant makes default, the goods shall be awarded to the plaintiff, *viz.* they shall remain to him without recovering any damage.

Wishernam. But if it so happen, that the sheriff cannot have a view of the goods, then he shall certify the same in the hushings, and there shall be awarded a writ of *Wishernam*, and thereupon process made, and if the parties come and avowry be made, they may then plead to judgment or to an issue of inquest, as the case requires.

The parties may also be effoined, after every appearance, but if the party claim property and certify the same in the hushing, a process may be made

made by a precept to the sheriff, to try the property, notwithstanding the party be effoined of the king's service, in a repligiar, and if he make default upon the effoin-day, he shall not be charged of the damage.

The practice, however, upon a replevin, is briefly said to be thus: He that would replevy goods in *London*, may go to the clerk of the papers belonging to one of the compters, and give in particulars and security, to restore the goods or the value, in case upon a trial it shall appear the same did not belong to him. And then the clerk will give a warrant to one of the sheriff's officers to cause the goods to be appraised, and to deliver them to the plaintiff. After the appraisement is made, and the goods delivered, the officer must make return thereof to the clerk of the papers, who will immediately thereupon certify the record thereof into this court, where the same must be decided; and if issue shall be joined to try in whom the property of the goods was when the same were taken, a jury must be summoned to try the issue; and in order thereunto, precepts must be issued to the beadles of six adjacent wards, to return the names of the six substantial freeholders and inhabitants of each ward.

When the names are so returned, a precept must be sent to the sheriffs to require them to summon the jury to appear at the next hustings of common pleas to try the issue.

A writ of *error* may be brought in this court ^{Writ of} to reverse any judgment given in the sheriff's ^{error.} court; the writ must be made by the curfitor for *London*, and directed to the mayor and sheriffs of *London*, and when sealed, must be delivered to Mr. townclerk, to allow the same; and at the same time, he that sues it, must enter into bond with two sufficient sureties to pay the debt, or damages, and costs recovered, and which shall be assessed in case the judgment should happen to

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be affirmed; or in case the plaintiff, in the writ of error, should not prosecute the writ of error with effect; and when security shall be so given, Mr. Townclerk will make a supersedeas directed to the sheriffs, to stay further proceeding upon the judgment; and it is usual to move the court at the next huffings of common pleas, after the allowance of the writ, that the proceedings in the sheriff's court, may be certified within fourteen days then following, into this court, where errors may be assigned and argued; and if judgment shall be affirmed, the plaintiff in the writ of error may bring another writ of error before the judges, to examine the former judgment.

When judgment shall be affirmed in this court, upon a motion, the court will order the bond to be delivered up to the defendant in the writ of error, to put the same in suit for his costs and damages sustained, by reason of the delay of execution, who shall not be compelled to cancel or part with the same, till he shall be fully satisfied.

If the plaintiff in the writ of error, do not certify the record out of the sheriff's court into this court, according to the time given by the court, or if he shall not assign errors, the court will give judgment against the plaintiff, and issue out a warrant, in the nature of a procedendo, to the sheriffs of London, thereby commanding them to proceed to execution, upon the judgment obtained in that court.

Writ partitionis faciendæ. In a writ *de partitione faciendæ*, to make partition between partners of tenements in London, a writ closed shall be directed to the mayor and sheriffs, containing the matter after the nature of such writ, and the parties shall be warned by precept from the mayor, and the tenants may be effoined; or if they come they may plead; or if they make default, the partition shall be awarded by default.

The

The attornies of the lord mayor's court are attornies of the court of hufings likewise, and the second attorney is also clerk of the inrolments, to inrol all deeds that are brought thither; the method is thus:

The persons that sealed the deed must go before the lord mayor, or the recorder, and one alderman, and make acknowledgement that the same is their act and deed; if a wife be a party, she is to be examined by them, whether it was done with her full and free consent, without any kind of compulsion; in testimony of which the lord mayor, or recorder, and aldermen, set their hands to it, for which each may demand four pence, and the attorney's fee for the judgment is two shillings. Afterwards the deed must be delivered to the clerk of the inrolments, who at the next hufings will cause proclamation to be made thereof according to the custom of the court.

The fees for the inrolment of a deed, are:

	s.	d.
To Mr. Recorder	6	8
To the chamberlain	1	8
To the town clerk	0	10
To the attorney for every prels	6	0
To his clerk	0	8

Observe, that a deed inrolled in the hufings, bars the wife from claiming her dower, and is esteemed as good in *London* as a fine at common law.

The method of passing recoveries in this court is, first, a writ of right patent must be obtained from the cursitor of *London*, which must be delivered

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vered to one of the attornies of the court, who is to prepare the record and procure the recovery to pass.

The charge of passing a recovery is,

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For drawing the writ	0	1	0
For the writ of right	0	5	6
For allowance thereof	0	2	0
For the attorney's fee	0	3	4
For the warrant of attorney	0	0	4
For the precept of summons	0	2	0
For the return thereof	0	2	8
For the declaration	0	2	0
For the tenant's plea	0	2	0
For entering thereof	0	2	0
For the vouchee's plea	0	2	0
For entering thereof	0	2	0
For the common vouchee's plea	0	2	0
For entering thereof	0	2	0
For record for the pleaders	0	2	6
The common cryer	0	1	0
The common voucher	0	1	0
The green cloth	0	1	0
The four pleaders	0	13	4
For entering the judgment	0	2	0
The attorney's fee thereupon	0	3	4
The precept for seizing	0	2	0
Return thereof	0	2	0
For drawing and ingrossing the record	0	13	4
For exemplifying it	0	6	8
For the seal	0	6	8
For the clerk	0	0	8
	4	6	4

It is common to have a deed sealed to lead the uses of the recovery, and likewise to have such deed enrolled.

It is usual likewise, that if the vouches cannot attend the court in their own persons, to sign a warrant of attorney, and acknowledge it before the recorder, and that will be allowed of as well as if they had personally attended.

Note, that in this court of the hushings by Attaints, stat. 11 Hen. 7. c. 21. an attaint may be sued by bill upon any false verdict given in any of the courts of that city; and thereupon the mayor shall award a precept to every alderman, to present (either by themselves or their deputies) unto the said mayor, at the next hushings, the names of four indifferent and discreet citizens, out of each of their wards; each of them being worth one hundred pounds at least, out of which the mayor and six aldermen or more, shall impanel forty-eight, whom the mayor shall cause to be summoned, together with the tenants or defendants in the attaint, to appear at the next hushings; and if upon default of appearance or otherwise, there shall need a tales, the pannel shall be supplied out of the rest presented, or by other such citizens, at the discretion of the said mayor and six aldermen. Also pleas of attaints commenced in London, shall be tried there by inquests of the said city, and not elsewhere; and in an attaint there, no challenge shall be for want of sufficiency in estate.

The judgment in such an attaint shall not extend to lands or tenements, nor yet to other punishment of the petty jury or other processes, than such as are limited by this act.

Also in such an attaint if the petty jury be attainted, judgment shall be given against the defendant as at the common law, and against the petty jury, to forfeit each of them twenty pounds, or more, at the discretion of the court,

to be employed as other penalties forfeited before them, and to suffer six months imprisonment, or less, at the like discretion of the court, and to be for ever after disabled to be a juror; but if the verdict be affirmed, the grand jury shall further enquire of the corruption of the petty jurors, and if any of them be found to have taken any reward, or promises thereof, he shall forfeit ten times the value thereof to the plaintiff, and shall further incur imprisonment and disability to be a juror as aforesaid; the like forfeiture and imprisonment shall be inflicted upon the tenant or defendant who shall give such reward or promise, and this last forfeiture is to accrue to the city in manner aforesaid.

Restitution. Also if a debt, costs, or damages, are recovered in the first action, whereupon the attainr is brought, and that verdict found false, the plaintiff in such attainr may sue for restitution of such debt, costs, and damages, by writ, bill, or plaint, in any of the king's courts, wherein no wager of law shall be admitted.

Nonsuit, &c. And in such attainr, if the plaintiff be nonsuit, or the first verdict affirmed, the plaintiff shall be imprisoned and make fine (to the use of the city) at the discretion of the court.

Grand jury. Where there are one or more plaintiffs, if any of them die or be nonsuit, albeit all the tenants and defendants, and some of the petty jury die, yet shall not the attainr abate, so that two of that jury remain in life.

The grand jurors that make default, shall forfeit for the first, forty shillings, for the second, five pounds, and for every other afterwards, ten pounds.

And such process shall be made against the jurors and parties in this attainr, as is usually made in attainrs at common law, and shall be returnable at every husting.

The

The attaint shall not remain to be taken after the first summons, for default of tenant or defendant, or any of the petty jury; neither shall any essoin be allowed in the same.

When the trial is to be by *mediatatem lingue*, Trial per the mayor and aldermen shall impannel half *med. ling.* strangers, worth one hundred pounds each.

By stat. 11 Hen. 7. c. 21. none shall be impannelled upon a jury in London, except he have qualified. Jurors how lands and tenements, or goods and chattles, worth forty marks; and if the trial be for lands or debts, or damages, amounting to forty marks, or above, his real or personal estate, shall be worth one hundred marks, and the jurors defect herein is a principal challenge.

The issues of the jurors for default of appearance shall be at the first summons, twelve pence, at the second, two shillings, and double afterwards, and the issues lost in the mayor's court, shall accrue to the mayor and commonalty, and those lost in the sheriff's court to the sheriff.

And by stat. 4 Hen. 8. c. 3. for the issues above-mentioned, the mayor and sheriffs and their successors may distrain respectively, *viz.* the mayor for his, and the sheriffs for theirs.

And by the said statute, the sheriffs of London have power to return pannels of jurors in suits depending in any of the courts at Westminster, and tryable in London, being citizens, and having goods of the value of one hundred marks, who shall serve and be sworn in like manner as if they had lands and tenements of forty shillings *per annum*.

Also the sheriffs of London shall return upon the first distress upon every juror, twenty pence, and upon the second distress, forty pence, and upon every other distress after that, they double, until a full jury appear and be sworn, in pain of ten pounds, to be divided between the king and prosecutor

And

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And by statute 5 *Hen. 8.* the said issues shall be understood only of writs of distresses before justices or justice of *nisi prius*, in suits depending in the court of *Westminster*, and triable in *London*, and not of other writs or processess issuing out of the said courts.

And by stat. 7 and 8 *W. 3. c. 13.* concerning juries, no longer time is allowed for the summoning juries that are to try issues, joined and triable in *London*, or county of *Middlesex*, than was by law required before, nor any longer time, for the return of any writ, precept, or process, of *venere facias*, *habeas corpus*, or *distringas*, than was by law required before, and the said act shall not extend to the city of *London*, nor to any other county of any city or town within this realm, nor to any town corporate that hath power by charter to hold sessions of gaol delivery, or of the peace.

By stat. 27 *Hen. 8. c. 5.* citizens of *London* being worth four hundred marks in personal estate, may be impannelled, and returned by the sheriffs of *London* upon attaints there, albeit they have no real estates, notwithstanding the statute of 23 *Hen. 8. c. 3.* and the justices shall hereafter sit upon attaints in *London*, at *Guildhall*, or some other convenient place in that city, and not elsewhere; neither shall the citizens there be compellable to appear upon any such attaint in any other place, notwithstanding the statute of 23 *H. 8.*

Waste in
London.

As to the action of waste in *London.*

Cole in the hustings complains and counts that he was seised of the reversion in fee of a brew-house, which *Green* was possessed of for fifty one years by a lease, and that *Green*, fecit vastum, &c. videlicet in prosterando unum powderarium &c. pretii mille librarum; defendant pleads no waste made, and issue, and a jury according to the customs

custom of the city from the four next adjoining wards, *essend. in cur. ad proxim.* husting; the jury here made default, whereupon a distringas was awarded against them, returnable at another day, & *interim idem jurat. videant locum vastatum*; the jury appear but it was not returned that they had the view; they found the defendant guilty, *viz. prosteruendo unum pandoxatorium pretii*, one hundred pounds, and other particular wastes, to the value of two hundred pounds in all; (but not any particular vendition) and assesse twelve pence cost; and yet here they say, *quod def. fecit vastum, venditionem, &c.* but find not any vendition in particular afterwards, and therefore, and for that they should not have assesse costs, the verdict was quashed; whereupon at the petition of *Green*, another trial was from four wards (but in the record it is not said, next adjoining) though in truth they were so, but two were not adjoining by the record, and those jurors had the view and found a general verdict for the defendant, that there was no waste done; upon which *Cole*, the plaintiff, sues a special commission of errors A special commission of errors sued in London. in London, according to the custom, directed to several judges, and *Cole* prayed judgment against himself, which was given; then the plaintiff, *Cole*, proceeds to the commission of errors, and the judges commissioners (*Moreton, Turner, Rainsford, Hales, Vaughan*) sent to the mayor and sheriffs for the record at the hustings, to be before them at *Guildball*, at a day assigned; the first verdict was certified as parcel of the record, and these points were resolved.

1. The action of waste was well maintainable in London, for it had jurisdiction before the stat. of *Gloc. c. 5. 2 Inst. 299*, and *7 H. 6. 35.* is not law in this point.

2. Though the view was not returned on the first, yet the first verdict was good, for it is not The jury must have of the view.

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of necessity that the other should return it; though they must have the view, and it ought to be examined upon the trial.

3. The first verdict was sufficient and good in law, upon which the court of hushings ought to have given judgment for the plaintiff, without awarding a new venire; for the words *vastum, venditionem & destructionem*, are but the title of the verdict, and not the substance of it; and the finding the particular wastes is the substance of the verdict, but if they had not found the particular wastes it had been ill.

4. The last verdict, and judgment given on it were erroneous; first, because it is not said the precept was to the beadles of the four next wards, and so not a trial according to custom; secondly, because the court quashed the first verdict, which was sufficient, and so they erred in their judgment.

5. The judges commissioners ought not only to reverse the judgment in the hushings, given for the defendant, but ought to give such judgment upon the record before them, that the court of hushings ought to have given, *viz.* that the plaintiff shall recover the place wasted, and treble damages, upon the first verdict; for they are commanded to make *plenam & celerrimam justitiam*, and if they do not, the court of hushings cannot, and so a failure of justice.

6. That judgment shall be entered for the plaintiff of the place wasted, and treble damages, *nullo habito respectu*, to the costs, for no costs of the suit are recoverable in this action.

Green the defendant, brought a writ of error in parliament, and assigns error in fact that the four first wards out of which the first jury was empannelled, were not the four wards next adjoining to the place wasted, and so the custom not pursued.

Cole pleads, in nullo est erratum.

It was said it was an erroneous act of the court to award a venire to the officers of the wrong ward.

But it was resolved that it was a jeofail, and aided by the statute 21 Jac. c. 13. for two of the wards appear to be next to the place wasted, and so the venire was misawarded in part.

Query, for the statute seems to extend only to a trial at common law, and not to a trial by special custom. 2 Sand. 252. 1 Mod. 94. Green and Cole, but see this case more at large in 1 Lev. 309, 310, &c.

S E C T. III.

Of the Lord Mayor's Court.

THIS is a court of record, held before the lord mayor, aldermen, and recorder, every Tuesday, in Guildhall, wherein actions of debt, trespass, attachments, covenants, &c. arising within the city and liberties, of any value, may be tried, and actions from the sheriffs court removed hither, before the jury be sworn. *Lux. Lond.*

This is also a court of chancery or equity, respecting affairs transacted in the city and liberties; and gives relief when judgment is obtained in the sheriffs court, for more than the just debt. This court has an office peculiar to itself, consisting of four attornies, by whom all actions cognizable therein are entered, for the execution whereof there are six serjeants at mace, who daily attend in the said office. *Priv. Lond.*

This court, in divers respects, is the best to commence a process in, seeing an action (exclusiva

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five of stamps) may be entered at the small charge of four pence, and which, though not proceeded upon, never dies, as those in other courts. Besides, a suit may be begun and ended here, within the space of fourteen days, for so small a charge as thirty shillings. In short, this is the most extensive court of the kingdom; for all that is cognizable in the several courts of *England*, is the same in this.

The juries for trying causes in this, and the sheriffs courts, are by the several courts of wardmote annually returned at *Christmas*, when each ward, according to custom, appoint a sufficient number of persons to serve on the said juries for every month in the year, as follows,

Months.	Wards.
<i>January</i>	<i>Aldgate, Portsoken, and Cornhill.</i>
<i>February</i>	<i>Cheap Ward.</i>
<i>March</i>	<i>Bassishaw and Cripplegate.</i>
<i>April</i>	<i>Vintry and Bread-street.</i>
<i>May</i>	<i>Tower and Billingsgate.</i>
<i>June</i>	<i>Faringdon Without.</i>
<i>July</i>	<i>Bridge Ward.</i>
<i>August</i>	<i>{ Aldersgate, Colemanstreet, and Broad-street.</i>
<i>September</i>	<i>{ Farringdon Within, and Castle Baynard.</i>
<i>October</i>	<i>{ Queenbiths, Dowgate, and Waltham-brooke.</i>
<i>November</i>	<i>Langbourn, and Lime-street.</i>
<i>December</i>	<i>{ Candlewick, Cordwainer, and Bishopsgate.</i>

You are to enter your action with one of the four attornies of the court; and when it is so entered, you must not employ any of the sheriffs officers to arrest the defendant, but must give your action or a note thereof, to one of the serjeants at mace, belonging to the lordmayor and aldermen;

aldermen; and he will arrest the defendant, and if he cannot find bail, carry him to the *Compter* prison; but if the party arrested find bail, the eldest attorney of the lord mayor's court must take it, he being clerk of the bails, and he is answerable for their sufficiency. *Lex Londinen.* 2, 4. *Priv. Lond.* 251.

An action commenced in this court, may be brought to trial, and judgment in fourteen days time: and if there happen to be six weeks between the putting in bail, and the time of the defendants plea, the action may not be removed into another court. *Lex. Lond.* 2, 4.

By the custom of *London*, one may attach money or goods of the defendants, either in the plaintiff's own hands, or in the custody of a third person, and that either in the mayor's court or in the sheriffs court.

And the custom is that if any plaint be affirmed in *London*, in those courts, against any man, and he is returned *nihil*; if the plaintiff will surmise any other man within the city, who is debtor to the defendant in any sum, he shall have his garnishment against him to come and answer, if he be indebted in the form the other hath alledged, and if he comes and does not deny it, then his debt shall be attached in his hands. See page 113.

But debts upon record, statute, or recognizance; debt recovered, or which is in suit in the *King's Bench*, or *Common-pleas*, after issue joined imparlance to the action, or writ purchased returnable in *Banco*; and if money be in the sheriff's hands by execution, &c. these are not attachable in *London*; nor shall attachment lie for rent. 1 *Rol. Abr.* 552.

A legacy may not be attached in the hands of an executor, for it is uncertain whether the executor shall have assets to pay debts: but for the debt of an intestate, if a debt be due only upon simple

simple contract, a foreign attachment may be made; for the executor or administrator is chargeable for a debt due by the testator, or intestate, upon a simple contract, as well as upon a specialty. If a suit be commenced against an executor of any person, any debt which was due to the testator at the time of his death, may be attached by the executor; but not where the executor himself takes bond for a debt due to the testator; and, if he sells the goods, the money for which they were sold, &c. can be attached. A debt due may be attached by the administrator, an administrator being within the custom. 1 Vent. 211.

Debt may be attached in the hands of an attorney of the *King's Bench*, and he shall not be privileged; because, if such privilege were allowed, the defendant might put his estate into his attorney's hands, and the creditor would be barred of his remedy. If a man be indebted to another by bill, note, or verbal agreement, in any sum payable at a time to come, an attachment may be made for the money before the time agreed for payment thereof, even immediately; and judgment shall be presently had: but the execution shall not be awarded for this money until it becomes due according to the time mentioned in the agreement. Goods or money at any time coming to the garnishee's hands (*viz.* the third person) after the attachment, though it be six months after, shall be liable to the attachment. 1 *Rel. Abr.* 553.

Part of a debt may be attached by the custom of *London*. Money due upon account, after promise to pay it, and the day of payment past, may be attached; but no action may be afterwards maintained for the breach of promise. Where an account is made upon debts by simple contract, or where executors give time for payment of a bond due to the testator, these shall be

still

still attached. If a man dies intestate, an attachment may be made of money or goods in a third person's hands, before administration, &c. being entered against the bishop of *London*: but when there is a will proved, or letters of administration granted, the attachment dies; and must be again made by the executor or administrator against the party, unless it be condemned fully in the mean time. If a third person be condemned on attachment, and judgment is given, if no execution be sued against him, the plaintiff in the action may have judgment and execution against his principal debtor; and such debtor may sue the third person for his debt, notwithstanding the judgment. *1 Rol. Abr. 551. Dy. 822.*

Attachment may be made of boxes or trunks locked, and it must be so returned by the serjeant upon the action; and the court, the next day after the four court-days past, will grant judgment for opening them. Attachment made of jewels, either in a man's own hands, or in a third person's, ought to be returned upon record. When attachment is made of money due upon a bond, the penalty must be attached; and the court will afterwards abridge it to the principal. Monies, or goods, of any trading company may be attached; so as the debt demanded be upon bond under their common-seal. *Gr. Priv. 25.*

If an attachment be made of a horse in an inn-keeper's hands, he appearing by attorney may put in his plea, setting forth that there is so much money due to him for horse-meat; and the court will allow him his money before the plaintiff shall have judgment for the horse.

The custom of *London* must be strictly pursued in pleading, or it will not do; as, that *London* is an ancient city, and there is a custom in *London*, that, if any one be indebted to another, if he will enter his suit, or plaint, in the compters of the Sheriff of *London*, that a precept shall be awarded

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to a serjeant at mace to summon the defendant; and, if he return *nihil* (*viz.*) "That he hath nothing in the city, by which he may be summoned, *Et non est inventus*; and, if he be solemnly called at the next court, and makes default, that then, if the plaintiff can shew that the defendant hath goods in the hands of one within the liberty of the city, that the said goods shall be attached; and, if the defendant make default at four court-days, being solemnly called, that then, if the plaintiff will swear his debt, and put in bail for the goods, if the debt be disproved in a year and a day, or the judgment reversed, that he shall have his judgment for the said goods, &c."

A foreign attachment pleaded will be a good bar to action on the case.

All attachments are grounded upon actions of debt, and the manner of entering them is the same as in actions: one of the six officers belonging to the court must be employed to make them, and the return is to be within certain hours; for, perhaps, another attachment may be made after in the hands of the person attaching; which cannot be avoided but by pleading the former attachment. Then the plaintiff must see an attorney before the next court holden for the same competer; and, after attachment made, the garnishee may appear in court by attorney, and wage his law, or plead that he hath no money in his hands of the defendants, or other special matter, or he may confess it. If the attachment be of goods, and the plaintiff prove the goods attached, or any part in hands, the jury, in such case, must find for the plaintiff, and judgment will be had for an appraisement; whereupon a precept is to be made, directed to one of the officers of the court, to appraise the goods; and, if the garnishee shall not produce them, the officer must return *alongavit*; which signifies, that the garnishee hath

hath conveyed the goods out of the liberty of the city. The next court-day for trials, a jury must be sworn to enquire of the value of the goods found by the former inquest in the garnishee's hands; and judgment shall be entered for the value, according to the verdict of such jury: and upon attachments no costs are to be allowed to either of the parties. After judgment obtained by the plaintiff, he must, before execution is awarded, find sureties who will undertake for the plaintiff, if the defendant in the attachment shall, within a year and a day, come into court, and disprove or void the debt demanded against him, that then the plaintiff shall restore to the defendant the money condemned in the garnishee's hands, or so much thereof as shall be disproved; and then execution will be granted against the garnishee for the money mentioned in the judgment. *Lex Lond.* 34, 35. *Priv. Londin.* 257, 258, &c.

If a plaintiff hath two witnesses that will swear the garnishee had monies in hands when the attachment was made, on causing the depositions to be taken by the town clerk, it will stop the garnishee from waging his law, and force him to plead. If the garnishee refuse to wage law, the plaintiff may try the cause in four court-days after the scire facias comes into court; and the garnishee being warned in (after the four court-days are past) to appear, must see his attorney; and then, if he can wage his law, he may be discharged: but if he will plead, he must put in bail before the second court-day after the scire facias comes in; otherwise he is condemned for the whole sum, and is remediless as to trial by jury: but, if he puts in bail and pleads, it may be tried by a jury. If the garnishee fail to appear, he is taken by default, and judgment given against him for the goods and the money attached in his hands; and is without remedy, though he hath
not

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not one penny in hands; and, if taken in execution, must pay the money or go to prison.

The garnishee after trial may put in bail before the lord mayor, and dissolve the attachment and all the proceedings thereon; but then he and his security are liable to what debt the plaintiff shall make appear to be due to the defendant: and the party against whom the attachment is made, may put in bail in the *Compter*, or submit his body; which he or the garnishee may do before satisfaction acknowledged by the plaintiff; and this shall discharge the attachment. When satisfaction is acknowledged, then the attachment is perfected, so that the defendant can put in no bail to dissolve it. *Lex. Lon.* 33.

If the plaintiff in attachment fail to prove his debt, a verdict will pass against him for restitution of the money, or value of the goods attached; but, if the plaintiff prove his debt, a verdict will pass for the plaintiff in the attachment, and judgment be had for the debt proved due.

Attachment may be had for goods and money in one attachment, and for the same charge. An attachment for monies may be made and condemned in the lord mayor's court in five day's time, if no opposition is made.

In the lord-mayor's court of equity matters are heard and determined which arise within *London* and the liberties thereof. Here you must draw your bill, and get it signed by one of the four city counsel; then it is to be ingrossed and entered: and one of the officers belonging to the court must give the defendant a summons personally to answer the bill, for which he hath eight court-days after appearance (where no action at law is depending); and, if he doth not answer in that time, the plaintiff may have an attachment against him: after answer put in, the plaintiff is to reply, and examine witnesses in like manner

manner as in the court of *Chancery*; and within a month after replication, may bring his cause to hearing; whereupon follows the final order and decree: and, if the defendant do not perform the decree, after service thereof, and affidavit made, an attachment shall be awarded to compel him. When a bill is exhibited in this court, and answer given thereto, the plaintiff, if he be advised to examine no witnesses, may bring the cause to hearing within fourteen days after answer; and the whole charge will not exceed four pounds. *Gr. Priv.* 36, 39.

If an action at law be depending in *London*, and the defendant hath good cause of equity to be relieved against the plaintiff; in such case, the defendant may bring his bill into this court for relief; and, so soon as the same is filed, it is an injunction, and will stay the plaintiff's proceedings at law until he fully answer the bill. But if the action be depending in the sheriff's court, the defendant must cause the same to be removed into the lord-mayor's court, before he can stay the plaintiff's proceedings by filing a bill in this court. *Lex Lond.* 49, 50.

A bill may be removed out of this court into the high court of *Chancery*, any time before publication is passed, by filing a bill, and giving bond to prove the suggestions therein, &c. and then the certiorari must be allowed by the town-clerk; and the attorney for the defendant in this court is to certify the bill, answer, and proceedings in the court of *Chancery*.

Form of the Beginning of a Bill of Equity in the Lord Mayor's Court.

TO the right honourable F. C. esq. lord mayor of the city of *London*; and to his worshipful brethren the aldermen of the same city;

I

In

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In all humility complaining, sheweth unto your lordship and worships, your daily orator A. B. &c. That, whereas C. D. and E. F. &c.

The Conclusion is thus.

MAY it please your lordship and worships, one of your accustomed goodness, to cause the said C. D. and E. F. to be warned, by one of your lordship's and worship's serjeants at mace, and ministers of this honourable court, personally to be and appear in the same court at a day certain, to be by your lordship and worships thereunto prefixed; then and there to make answer unto all and singular the premisses upon their corporal oaths; and that they may be enjoined to stand to, perform, and abide by, such order and decree in the premisses, as to your lordship and worships, upon hearing the cause, shall seem meet, &c.

S E C T. V.

Of the Sheriffs Courts.

THESE are courts held in *Guild-hall* every *Wednesday* and *Friday*, for actions entered at *Wood-street Compter*; and on *Thursdays* and *Saturdays* for those entered at the *Poultry Compter*; of which the sheriffs being judges, each has his assistant, or deputy, who are called the judges of those courts; before whom are tried actions of debt, trespass, covenant, &c. and where the testimony of any absent witness in writing is allowed to be good evidence. To each of these courts belong four attornies, who, upon their being admitted by the court of aldermen, have an oath

oath administered to them, which, for its remarkable contents, is here inserted.

The Oath.

“YE shall swear, that ye shall well and lawfully examine your clients, and their quarrels, without champarty, and without procuring of any juries, or any inquest embracing. And that ye shall change no quarrel out of ill nature, after your understanding. Also ye shall plead, nor suffer to be pleaded by your assent, no foreign release, acquittance, payment, arbitration, plain account, whatsoever it be, to put the court out of its jurisdiction; nor none other matter; but it shall be such as ye may find rightful and true by the information of your client, whose information and saying, upon your oath and conscience, ye shall think to be true.

And ye shall not inform, nor inforce, any man to sue falsely against any person, by false or forged action. Ready ye shall be at all times to come and attend at the warning of the said mayor, and of the sheriffs of the said city, unless ye be letted about the business of the said city, or for some reasonable cause. The franchises, laws, and ordinances of this city, you shall keep, and due to be kept to your power: and that well and lawfully ye shall do all things that to the office of attorney pertaineth to do: as God help you.”

To each of these courts likewise belong a secondary, a clerk of the papers, a prothonotary, and four clerks sitters. The secondary's office is to allow and return all writs brought to remove causes out of the said courts; the clerk of the papers files and copies all declarations upon actions; the prothonotary draws and ingrosses all declarations; the clerks sitters enter actions and attachments, and take bail and verdicts. To each of

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the compters, or prisons belonging to these courts, appertain sixteen serjeants at mace, with a yeoman to each, besides interior officers, and the prison keeper.

In the sheriffs' court may be tried actions of debt, case, trespass, account, covenant, and all personal actions, attachments, and sequestrations. And the usual practice of this court is to enter your action at one of the compters; and any one of the serjeants may arrest the defendant and bring him into custody, which arrest may be made without warrant or precept; and the serjeant need not declare his name, because he is sworn and known; but he ought to shew at whose suit the arrest is made, for what, and of what return the process is of; that the defendant may know how to make his defence. In these courts, actions require more time to bring them to judgment than in the court of the lord-mayor, and are more expensive; and, after a verdict obtained in the sheriffs' court, before the judgment is entered, the defendant may stop judgment by marking the cause before the lord mayor, for time to pay the money recovered. This is to be done by an attorney of the mayor's court; and if, upon hearing of a marked cause, it appears that the plaintiff had a verdict for more than his just debt, his lordship may remit the cause to judgment for the just debt only, and allow such time to pay the same as he shall think reasonable; on security given therefore, &c.

When an erroneous judgment is given in either of the sheriff's courts of the city, the writ of error to reverse this judgment must be brought in the court of hustings before the lord-mayor; for that is the superior court. *Priv. Lond. Lex Lond.*

The sheriffs of *London* may make arrests; and serve executions on the river *Thames*.

Fees for Trial in the Sheriffs Court.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
THE action, _____	0	0	4
The arrest, _____	0	1	0
The attorney's fee, _____	0	1	8
The declaration, if general, _____	0	1	4
If the declaration be special, the pro- thonotary's fee for every sheet draw- ing and ingrossing, _____	0	0	8
The court fees hereon, _____	0	0	8
The issue and attorney's fee, _____	0	4	0
The summons of the jury and attor- ney's fee, _____	0	4	8
The subpoena, _____	0	2	0
The counsel's fee, _____	0	5	0
The jury's verdict, _____	0	4	6
The judgment, _____	0	2	6
The execution, _____	0	1	4

The Defendant's Fees for a Trial.

THE attorney's fee for appearance, } and the court fees, _____	0	2	6
The copy of the declaration, <i>per</i> sheet, _____	0	0	4
The issue and attorney's fee, _____	0		8
Attorney's fee upon the summons, _____	0	1	

Note, by the antient ordinances for regulating the courts of the city, attorneys in the mayor's and sheriffs courts ought not to be admitted, without having served a clerkship of seven years; and they shall not be bail for any persons whatsoever. No cause in the sheriffs court ought to be put off from trial after issue joined, by continuances entered, but on motion in open court. Due return of process shall be made by serjeants, &c. and actions are to be withdrawn, or satisfaction acknowledged, where agreements are made; and parties arrested discharged. *Lex Lond.*

S E C T. VI.

Of the Court of Orphans.

THIS court is occasionally held by the lord mayor and aldermen, who are guardians to children, who are under the age of twenty-one years, at the decease of their fathers; and who take upon them not only the care and management of their goods and chattles, but likewise that of their persons, by committing them to careful and faithful tutors, to prevent their disposing of themselves, during their minority, without their approbation. *Lex Lond.*

The common-serjeant is authorised by the said court, to take exact accounts and inventories of all deceased freemen's estates; and the youngest attorney of the mayor's court, being clerk to that of the orphans, is appointed to take securities for their several portions, in the name of the chamberlain of *London*, who is a sole corporation of himself, for the service of the said orphans; and to whom a recognizance, or bond, made upon the account of an orphan, shall, by the custom of *London*, descend to his successor; which is hardly known elsewhere. *Priv. Lond.*

When a freeman of *London* dies, and leaves children in their minority, the clerks of the several parishes are to give in their names to the common crier, who is thereupon immediately to summon the widow, or executor, to appear before the court of lord mayor and aldermen, to bring in an inventory of, and give security for the testator's estate; for which two months are commonly allowed: and in case of non-appearance, or refusal of security, the court of aldermen may send him to prison till he submit.

After

After the bond given, the executor must procure four freemen to appraise the testator's goods, and cause them to be sworn before a justice of the peace, to make a true and just appraisement; and the common crier must be present when the appraisement is made, and sign the inventory.

Lex Lond.

The appraisement being thus made and signed, it must be given to the common serjeant; and if he approves thereof, he will cause it to be ingrossed, and a duplicate thereof to be made for the executor or administrator; and when the same is examined by him, and his hand set thereto, the executor or administrator must, in the court of aldermen swear to the inventory, and become bound to bring in the money due to the children by such inventory within two months, or give good security to pay the same into the chamber of *London*.

After an executor hath exhibited his inventory, he must make up an account of his receipts and payments since the inventory; and give it to Mr. Common-serjeant, who will examine it, and order it to be ingrossed, and set his hand thereto, with a duplicate for the executor; and the executor must make oath before the court of aldermen, that the account is true. And if any executor cannot give in his account according to the time mentioned in his bond, he must apply himself to the court of aldermen for further time, which is usually granted.

An allowance of five pounds *per cent.* for estates due to orphans; not exceeding five hundred pound; and three pounds six shillings and eight pence *per Cent.* for legacies, hath been made to executors on paying the same into the chamber of *London*.

If any freeman or freebornman die, leaving orphans within age unmarried, the lord-mayor

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and aldermen may commit the custody of their persons and goods to such person or persons as they think fit. *Stat. 1 R. 2.*

The executors or administrators, are to exhibit true inventories before the court of orphans; and if any debts appear due, they shall become bound to the chamberlain, to the use of the orphans, in a reasonable sum, to make a true account upon oath, of the debts after they have been received; and executors, &c. refusing, may be committed till they become bound. *1 Mod.*

It is a custom of *London*, that if any freeman deviseth lands or legacies of goods to an orphan, that then the lord-mayor and aldermen shall take the profits of the land, and have the disposition of the legacies, until the legatees shall attain the age of twenty-one years; or if a woman, till she be married: and if the disposition of the profits of the land, or of the personal legacies, were declared by the testator in his will, then the mayor and aldermen have used time out of mind, to convene the persons trusted by the will of the testator before them, and compel them to find sureties for the performance of the legacies, to account for the rents and profits of the lands, &c. and if they refuse to find sureties, then it is lawful to imprison them until they do; the wife of a freeman is within this custom, though she were dwelling out of *London* at the time of the will made. *Priv. Lond.*

The security must take care that none of the orphans marry, or be put out apprentices, without leave of the court of aldermen; and if any person intermarry with any orphan, without the consent of the same court, such person may be fined according to the quality and portion of the orphan; and be committed to *Newgate*, if he refuse to pay the fine. This custom, amongst many others, was confirmed by *stat. 7 Rich. 2.* and was allowed to be good by the judges, in the
case

case of *Ralph Harwood*, who married an orphan, with the consent of her relations, but without the consent of the court of aldermen. *Gr. Priv. Lond.*

If an infant daughter be committed to the custody of a guardian, by the court of orphans, and such ward is taken away, &c. the court may commit the party to *Newgate* who does it, there to be imprisoned till he produce the infant, or be delivered by due course of law. *Raym.* 116.

The portion of an orphan is of such a nature, that if the husband of the orphan die, without altering the property, his widow, and not his executors, shall have it; a portion in the court of orphans, being a thing in action, is not devisable: and he that marries an orphan without licence, though his estate merits her fortune, must make a jointure before he receives the portion. 2 *Vent.* 240.

The widow of every freeman, being executrix or administratrix, of her husband's estate, is to exhibit a true inventory of the husband's estate, before she contracts marriage, or the court of aldermen may fine her to the use of the orphans. *Lex Lond.*

If an orphan can prove any goods omitted in the inventory, or undervalued, or any debts charged to be owing from the deceased, which were not real and just debts; a jury is to be summoned to enquire whether the inventory exhibited be a true and perfect inventory, or not? and if the jury find any omissions or undervaluations, the executor shall be sued upon the bond he gave for exhibiting an inventory, and be compelled to make good what the jury find omitted, undervalued, &c. *Lex Lond.*

When an orphan is of full age (which must be proved) and shall acknowledge satisfaction in the court of aldermen, for all monies due to him

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or her; the court upon motion made by Mr. Common-ſerjeant, will order that all bonds for payment of the orphan's portion, &c. ſhall be delivered up and cancelled, and recognizances to be croſſed.

If a father is a freeman of *London*, he cannot deviſe the diſpoſition of the body of the infant, by the ſtatute 12 *Car.* 2. &c. if he do, yet the infant ſhall remain in the cuſtody of the mayor and aldermen; and this cuſtom to have the cuſtody of the orphan's perſon, and of his real and perſonal eſtate, extends to lands out of *London*. *Sid.* 363.

The ſtatute of 5 and 6 *W. and M.* cap. 10. enacts, that the lands, markets, fairs, &c. belonging to the city of *London*, (except ſuch as belong to hoſpitals, and are liable to the repairs of *London-bridge*) ſhall be chargeable for raiſing eight thouſand pounds, *per ann.* to be appropriated for a perpetual fund for orphans: and towards the raiſing ſuch a fund, the common council may aſſeſs two thouſand pounds yearly, upon the perſonal eſtates of the inhabitants; alſo every apprentice is to pay two ſhillings and ſix pence, when bound, and five ſhillings when he is admitted a freeman; and four ſhillings *per ton*, is granted upon wine for the increaſe of the fund. This fund is to be applied for payment of debts due to orphans, by an intereſt after the rate of four pounds *per cent.* for ever; and no perſon is compellable to pay the principal money, &c. The chamberlain miſapplying any of the monies appointed, ſhall forfeit treble the ſum: and any perſon to whom ſuch money is payable, may aſſign and transfer the ſame in a book kept by the mayor and court of aldermen.

S E C T. VII.

Of Justice-Hall Court.

THIS court is held by the king's commission of *oyer and terminer*, at *Justice-Hall* in the *Old Baily*, eight times a year, for trying of criminals, for crimes committed within the city of *London* and county of *Middlesex*; the judges of this court, are the lord-mayor, aldermen that are passed the chair, and the recorder, who on all such occasions are attended by both the sheriffs, and generally by one or more of the national judges. All offences committed in the city are tried by a jury of citizens; and those committed in the county by one of that. The crimes and misdemeanors tried in the court, are, high and petty treason, murder, felony, perjury, forgery, petty larceny; cheating, libelling, false weights and measures, &c. the penalties incurred by which, are the loss of life, corporal punishment, transportation, amerciamment, &c. The charge of a prosecution in this court is but a trifle, for the encouragement of people to prosecute rogues. *Reg. Char. Lond.*

S E C T. VIII.

The Coroner's Court.

THE lord-mayor being perpetual coroner of the city, this court is held before him, or his deputy, who is to inquire into the cause of the death of any person, who, upon sight of the body, is supposed to have come to an untimely

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untimely end; as he is likewise into the escape of the murderer; and concerning found treasure, diamonds, and wrecks at sea. *Royal Char. Lond.* 4 *Inst.* 4.

S E C T. IX.

The Court of Escheator.

THE lord-mayor of *London* being perpetual escheator within the city, this court is also held before him or his deputy, to whom all original writs, *Diem clausit extremum, madamus, deveniunt, melius inquirend, &c.* are directed, to find an office for the king, after the death of his tenant who held by knight service. The escheator may also find an office for treason, felony, &c. *Royal Char. Lond.*

S E C T. X.

The Court of Conserbacy.

THIS court is yearly held eight times before the lord-mayor, at such places and times as his lordship shall think fit to appoint, within the respective counties of *Middlesex, Essex, Kent, and Surry*; in which several counties he has a power of summoning juries, who for the better preservation of the fishery of the river *Thames*, and regulation of the fishermen that fish therein, are upon oath to make inquisition of all offences committed in and upon the said river, from *Stanes-bridge* in the west, to *Tenfleet* in the east;

cast; and to present all persons that are found guilty of a breach of the following ordinances:
Roy. Char. Lond.

First, That no person shall shoot any draw-net, &c. at any time of the year before sun-rising or after sun-setting; that no fisherman shall still-lie, or bend over any net during the time of the flood, whereby salmons, &c. may be hindered and kept back from swimming upwards; that no fisherman or others shall use any spear called an eel-spear, nor exercise any flue trammel, double walled net, or hooped net, to destroy the fry of fish; that no fisherman use any mill-pois, or other engines, with the heads thereof against the stream; that no fishermen shall rug for flounders between *London-bridge* and *Westminster*, &c. but only two casts at low water, and two casts at high water; and that no flounder be taken under the size of six inches; that no fisherman, or other, fish with, or use any angle with more than two hooks upon a line, within the limits of *London-bridge*; that no *Peter-men* fish further westward than *Richmond*, to which place the water ebbs and flows; that no fisherman keep two boys in one boat, unless one be at man's estate; nor take up any wreck or drift upon the water, without notice to the water-bailiff, &c. and all fishermen shall be registered, &c. under divers penalties and forfeitures.

These orders are for regulating the fish westward, between *London bridge* and *Stanes bridge*; and there are several orders for the government of the fishery eastward, between *London-bridge* and *Kendal*, touching unlawful taking of smelts, whittings, shads, fish out of season, royal fish; such as whales, sturgeons, porpusses, &c. and presenting the same at the court of conservacy of the river of *Thames*.

By an order of 10 July, 1673, no person shall draw the shores in the river of *Thames*, save only for salmon, by persons empowered, &c. and

none

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none shall fish with a net under six inches in the mesh, on pain of twenty pounds, and the water-bailiff hath power to authorise two honest fishermen in any town, &c. to be assistant to him, in searching for and seizing unlawful nets, &c. no fisherman or other person shall cast any soil, gravel, or rubbish, in the *Thames*, whereby banks or shelves are raised, and the common passage hindered, nor drive any piles or stakes in the said river, upon which the like danger may arise, on the penalty of ten pounds.

And by statute 27 *Hen.* 8. if any person shall procure any thing to be done to the annoyance of the *Thames*, in making of shelves, mining, digging, &c. or take any boards or stakes, undermine banks, walls, &c. he shall forfeit five pounds.

And for the more effectual preservation of the navigation, and fish in the river *Thames*, the lord-mayor as conservator thereof, has his assistant or deputy, the water-bailiff; who, together with his substitutes, detect and bring to justice all such persons as shall presume to destroy either the current or fish of the said river.

S E C T. XI.

Of the Court of Requests.

THIS excellent court, from its reasonable and equitable proceedings, is commonly called *the Court of Conscience*, had its beginning in the ninth of *Henry VIII.* anno 1518. An act of common council was then made, whereby it was ordained, that the court of lord-mayor and aldermen should monthly appoint two aldermen and four commoners, to be commissioners thereof, who were to sit weekly in *Guild-hall*,

ball, on *Wednesdays* and *Saturdays*, to hear and decide all causes brought before them for the recovery of debts not exceeding forty shillings.
Lex Lond.

This being an experimental act, was only made for two years; but upon its being found to be of great use and benefit to the poor, it was renewed and continued by divers acts of common council, and the number of commissioners increased to fourteen; in which state it continued till the third of king *James I. anno 1606*, at which time divers cruel and inexorable creditors, despising the authority of the same, commenced suits in superior courts, against several citizens for trifling debts, to the ruin of them and their families; wherefore the city, in the year aforesaid, applied to parliament for redress of this grievance, by which it was enacted, that all the citizens, and others inhabiting within the city of *London*, and liberties thereof, who then had, or thereafter should have any debt or debts due, or becoming due to him or them, by any citizens, &c. as aforesaid, not amounting to the sum of forty shillings, that he or they should, or might cause such debtor or debtors to be summoned to appear before the commissioners of the court of requests at *Guild-hall*, by the officer thereunto belonging; where they, or any three thereof, are empowered to hear and determine all matters between citizen and citizen, &c. touching debts not amounting to forty shillings; and in a judicial manner to administer oaths to plaintiffs, defendants, and witnesses. And for the more effectual preventing all litigious and merciless creditors from ruining their poor debtors, it was ordained, that if by any action of debt, brought against a citizen of *London*, in any of the courts of *Westminster*, or elsewhere (out of the said court of requests) it shall appear to the judge or judges

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judge or judges, where such action shall be prosecuted, that the debt sued for does not amount to forty shillings, in such case the said judge or judges, instead of allowing the plaintiff or plaintiffs any costs of suit, they shall adjudge the said plaintiff to pay to the defendant all such costs as he shall make appear to have been by him disbursed in defending the said suit. *Stat. 13 Jac. 1. c. 15.*

It was also ordained, by the authority aforesaid, that if either plaintiff or defendant, after having been duly summoned, shall refuse to appear before the said commissioners in the court of requests, or shall refuse to obey the orders or decisions of the said court; in both such cases, the commissioners are empowered to commit such person or persons, to either of the compters till he, she, or they, shall submit to the rules and determinations of the said court.

Perhaps never a court of justice was better adapted than this, for the ease and relief both of debtor and creditor; for here the first is not exposed to the payment of exorbitant charges, and the latter may recover his debt with the greatest expedition, at so small an expence as ten pence; *viz.* for the plaint and summons, six pence; and for the order, four-pence. But if the defendant do not appear the second court-day, after being regularly summoned, an attachment is awarded against him; which compelling him to appear, the charge is thereby enhanced. *Lex Lond.*

And if any citizen happen to be arrested for a debt under forty shillings, this court grants a summons for the plaintiff; who, in case of non-appearance the first court day, has an attachment granted against him, whereby he is obliged to take his debt, and pay the defendant his costs. And in case any attorney shall presume to prosecute the suit after notice to the contrary, or shall refuse

refuse to adhere to the order of court, he shall, upon complaint thereof to the court of lord-mayor and aldermen, immediately be suspended. *Lex Lond.*

S E C T XII.

Of the Court of Wardmote.

THIS court is denominated from the words *Ward* and *Mote*; that is, *the Ward Court*: for in this city parishes are as towns, and wards as hundreds; wherefore this court resembles that of the leet in the county; for, as the latter derives its authority from the county court, so does the former from that of the lord-mayor; as is manifest by the annual precept issued by the lord-mayor to the several aldermen, for holding their respective leets for the election of proper officers in each ward; the tenor whereof is as follows;

“ To the alderman of the ward of —

“ WE charge and command you, that, upon *St. Thomas's* day, the apostle, next coming, you do hold your wardmote; and that you have afore us, at our general court of aldermen, to be holden the *Monday* next after the feast of the *Epiphany* next coming, all the defaults that shall be presented afore you by inquest in the said wardmote; and the said inquest shall have power and authority, by one whole year, to inquire into and present all such defaults as shall be found within your said ward, as oftentimes as shall be thought to you expedient and needful; which we will shall be once every month at least.

2. “ And, if it happen any of your said inquest do die, or depart out of your said ward, within the

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the said year, that then, in place of him or them so dying, or departing out of your said ward, you cause to be chosen one able person in his stead, to inquire and present with the other, in manner and form abovesaid.

3. " And that, at the said general court, you give afore us the names and surnames of all of them of your said ward that come not to your said wardmote, if they be duly warned; so that due redress and punishment of them may be had, as the case shall require, according to the law.

4. " And that you provide, that, at all times convenient, a sufficient watch be kept; and that lanterns, with light by nightertail, in old manner accustomed, be hanged forth; and that no man go by nightertail without light, nor with vizard, on the peril that belongeth thereto.

5. " And also, that you do cause to be chosen men, of the most sufficient, honest, and discreet men, of your said ward, to be, for your said ward, of the common-council of this city for the year ensuing, according to the custom in that behalf yearly used. And also, that you do cause the said men, so to be chosen to be of the common-council, to be sworn before you, and in your presence, according to the oath by them used and of old time accustomed.

6. " And that also, in the said wardmote, you cause to be chosen certain other honest persons, to be constables and scavengers, and a common-beadle, and a raker, to make clean the streets and lanes of all your said ward, according to the custom yearly used in that behalf; which constables have, and shall have, full power and authority to distrain for the salary and quarterage of the said beadle and raker, as oftentimes as it shall be behind or unpaid.

7. " Also, that you keep a roll of the names, surnames, dwelling-places, professions and trades, of all persons dwelling within your ward, and
within

within what constable's precinct they dwell; wherein the place is to be specially noted by street, lane, alley, or sign.

8. "Also that you cause every constable, from time to time, to certify unto you the name, surname, dwelling-place, profession and trade, of every person who shall newly come to dwell within his precinct, whereby you may make and keep your roll perfect; and that you cause every constable for his precinct, to that purpose, to make and keep a perfect roll in like manner.

9. "Also, that you give special charge to every inn holder, and other persons within your ward, who shall receive any person to sojourn in his house above two days, shall, before the third day after his coming thither, give knowledge to the constable of the precinct where he shall be so received, of the name, surname, dwelling-place, profession and trade of life, or place of service, of such person, and for what cause he shall come to reside there; and that the said constable give present notice thereof to you; and that the said innholder lodge no suspected person, or men or women, of evil name.

10. "Also, that you cause every constable within his precinct, once every month at the farthest, and oftener if need require, to make diligent search and inquiry what persons be newly come into his precinct to dwell, sojourn or lodge; and that you give special charge, that no innholder or person shall resist, or deny any constable in making such search or inquiry; but shall do his best endeavour to aid and assist him therein.

11. "And for that, of late, there is more resort to the city of persons evil-affected in religion and otherwise, than in former times hath been; you shall diligently inquire if any man be received to dwell or abide within your ward, that is not put under frank-pledge, as he ought to be
by

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by the custom of the city ; and whether any person hath continued in the said ward by space of one year, being above the age of twelve years, and not sworn to be faithful and loyal to the king's majesty, in such sort as by the law and custom of this city ought to be.

12. " To all these purposes, the beadle of every ward shall employ his diligence and give his best furtherance.

13. " Also you are to take order, that there be provided and set up a pair of stocks, and a whipping-post, in some convenient place in every parish within your ward, for the punishment of vagrants and other offenders.

14. " Also, that you have special regard that, from time to time, there be convenient provision for hooks, ladders, buckets, spouts, and engines, in meet places, within the several parishes of your ward, for avoiding the peril of fire.

15. " Also, that the streets and lanes of this city be, from time to time, kept clean before every church, house, shop, warehouse, door, dead wall, and in all other common passages and streets of the said ward.

16. " And whereas, by divers acts of common-council, aforetime made and established for the common weal of this city, among other things, it is ordained and enacted, as hereafter ensueth :

" Also it is ordained and enacted, as hereafter ensueth ; that, from henceforth, no huckster of ale or beer be within any ward of the city of *London*, but honest persons of good name and fame, and so taken and admitted by the alderman of the ward for the time being ; and that the same hucksters do find sufficient surety afore the mayor and aldermen for the time being, to be of good guiding and rule ; and that the same hucksters shall keep no bawdry, nor suffer no lechery, dice-playing, carding, or any other unlawful games, to be done, exercised, or used within their

their houses; and to shut in their doors at nine of the clock in the night, from *Michaelmas* to *Easter*; and from *Easter* to *Michaelmas* at ten of the clock in the night; and, after that hour, sell no ale or beer. And if any huckster of beer or ale, after this act is published and proclaimed, sell any ale or beer, within any ward of the city of *London*, and be not admitted by the alderman of the same ward so to do, or find not sufficient surety, as it is above rehearsed, the same huckster to have imprisonment, and make fine and ransom for his contempt, after the discretion of the lord-mayor and aldermen. And also that the said hucksters suffer no manner of common eating or drinking within their cellars or vaults, contrary to the ordinance thereof obtained and provided, as in the said act more plainly appeareth at large. We charge you that you put the same in due execution accordingly.

17. " And also, that you see all tipplers, and other sellers of ale or beer, as well privy osteries as brewers and inn holders within your ward, not selling by lawful measures sealed and marked with the city arms, or dagger, be presented, and their names in your said indentures be expressed, with their defaults; so that the chamberlain may be lawfully answered of their amerciaments.

18. " And also, that you suffer no alien, or son of any born an alien, to be of the common-council; nor to exercise or use any other office within this city; nor receive or accept any person your watch, privy or open, but *Englishmen* born; and if a stranger born out of this realm, made denizen by letters patents, or any other, after his course and lot, be appointed to any watch, that then ye command and compel him, or them, to find in his stead and place an *Englishman* to supply the same.

19. " And

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19. " And also, that you cause an abstract of the assise, appointed by act of parliament, for billets and other fire-wood, to be fair written in parchment, and to be fixed or hanged up in a table, in some fit and convenient place in the parish within your ward, where the common people may best see the same.

20. " And furthermore we charge and command you, that you cause such provision to be had in your said ward, that all the streets and lanes within the said ward be, from time to time, cleansed, and clearly voided of ordure, dung, mire, rubbish, and other filthy things, whatsoever be to the annoyance of the king's majesty's subjects.

21. " And also, that, at all times, as you shall think necessary, you do cause search to be made within your said ward for all vagrant beggars, suspicious and idle people, and such as cannot shew how to live; and such as shall be found within your said ward, that you cause to be punished, and dealt with according to the laws and statutes in such case ordained and provided.

22. " And also, we will and charge you, the said alderman, that yourself certify, and present before us, at the said general court, to be holden the aforesaid *Monday* next after the feast of the *Epiphany*, all the names and surnames, truly written, of such persons being and dwelling within your said ward, as to be able to pass in any petty jury by themselves; that is to say, every grand-juryman to be worth in goods an hundred marks, and every petty-juryman forty marks, according to an act in that case ordained and provided; and the same you shall indorse on the back-side of your indenture.

23. " *Item*, for divers reasonable and urgent considerations us especially moving, we straightly charge and command you, on the king our sovereign

saiga lord's behalf, that ye diligently provide and foresee, that no manner of person or persons, within your said ward, what conditiou or degree soever be or they be of, keeping tavern, or ale-house, ale-cellar, or any other victualling house, or place of common resort to eat or drink in, within the same ward, permit or suffer, at any time hereafter, any common women of their bodies, or harlots, to resort and come into their said house, or other the places aforesaid, to eat or drink, or otherwise to be conversant, or abide, or thither to haunt, or frequent, upon pain of imprisonment, as well of the tenant and keeper of every such house, or houses, and all other the places afore remembered, as of the common women and harlots.

24. " Also, that you do give in charge to the wardmote inquest of your ward, all the articles delivered to you herewith; and that you may have a special care of keeping the peace and good order during your wardmote; and if any offend herein, you may fine or punish them according to law.

25. " And whereas the monies received for the fines of persons refusing to hold ward offices within your ward, ought to be employed in the service and for the public benefit of the whole ward, and not of any particular precinct or parish within the ward; these are therefore to require you to take care, that all such fines be, from time to time, disposed of accordingly, for the benefit of the whole ward, as you, with the deputy and common-council-men of your ward shall think most fitting and convenient; and that no such fines be received or employed in any particular precinct or parish.

" Not failing hereof, as you tender the common-weal of this city, and advancement of good justice, and as ye will answer for the contrary at your utmost peril.

" Dated

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" Dated at under the seal office of
mayoralty of the said city, in the year of
the reign of our sovereign lord *George the Third,*
&c."

By this precept it doth appear, that the court of wardmote consists of the alderman and the respective householders of his ward, by whom are annually elected the several officers peculiar to the same; among whom being those of the inquest, they receive the aforesaid instructions for their better regulation.

S E C T. XIII.

Of the Chamberlain's Court.

THIS is an office kept in the *Guild hall* of *London*, by the chamberlain of the city, who is thereunto annually chosen by the liverymen of the respective companies on *Midsummer-day*. But this practice is rather a custom than otherwise; for there are no instances (that I can learn) of any of the said officers being turned out without their being found guilty of malpractices.

This being a place of great trust, the chamberlain at his first being chosen, is obliged to give security for his fidelity. He receives and pays all the city cash, and with him are deposited all publick securities, for which he annually accounts to the proper auditors.

This officer attends every morning for enrolling and turning over of apprentices, admits all persons duly qualified into the freedom of the city, and decides all differences that arise between
tween

tween masters and apprentices; of the latter about fifteen hundred are yearly admitted into the freedom of the city.

S E C T. XIV.

The Court of Hallmote.

THIS court is denominated from the place wherein it is kept, and belongs to the several companies of citizens, by whom it is occasionally held in their respective halls, and wherein the affairs belonging to each of the said corporations are respectively transacted.

S E C T. XV.

Of the Pie-powder Court.

THIS is a court of record, denominated *pie-powder* (vulgarly *pie-powder*) and is incident to every fair, as a court-baron is to a manor; it is derived from *pedes pulverisati*, and is so called from its expeditious proceedings in the decision of all controversies that happen in fairs; because for the encouragement of traders who frequent the same, justice is as quickly administered as dust can fall from the foot. 4 Inst. 272.

This is held in *Cloth-fair* (during the time of *Bortholomew fair*) by the city of London, and Mr. ———, for hearing and deciding all differences committed against the rent of the following proclamation, which is annually made before the lord mayor, on the eve of St. Bartholomew, for the better regulation of the said fair.

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“ The right honourable ———, lord-mayor of the city of *London*, and his right worshipful brethren the aldermen of the said city, freightly charge and command, on the behalf of our sovereign lord the king, that all manner of persons, of whatsoever estate, degree or condition they be, having recourse to this fair, keep the peace of our sovereign lord the king.

“ That no manner of persons make any congregation, conventicles, or affrays, by the which the same peace may be broke or disturbed, upon pain of imprisonment, and fine to be made after the discretion of the lord-mayor and aldermen.

“ Also, that all manner of sellers of wine, ale, or beer, sell by measures unsealed, as by gallon, pottle, quart, and pint, upon pain that will fall thereof.

“ And that no person shall sell any bread, except it keep the affize; and that it be good and wholesome for man's body, upon pain that will follow thereof.

“ And that no manner of cook, pie-baker, nor huckster, sell or put to sale any manner of victual, except it be good and wholesome for man's body, upon pain that will fall thereof.

“ And that no manner of person buy, nor sell, but with true weights and measures, sealed according to the statute in that behalf made, upon pain that will fall thereof.

“ And that no person or persons take upon him or them, within this fair, to make any manner of arrest, attachment, summons, or execution; except it be done by the officers of this city thereunto assigned, upon pain that will befall thereof.

“ And that no person or persons whatsoever, within the limits and bounds of this fair, presume to break the lord's day, in selling, shewing, or offering to sale, or in buying or offering to buy, any commodities whatsoever; or in
sitting

sitting, tippling, or drinking, in any tavern, inn, ale-house, tippling-house, or cooks house, or in doing any other thing that may tend to the breach thereof, upon the pains and penalties contained in several acts of parliament, which will be severely inflicted upon the breakers thereof.

“ And finally, that what persons soever find themselves grieved, injured, or wronged by any manner of person in this fair, that they come with their complaints before the stewards in this fair, assigned to hear and determine pleas; and they will minister to all parties justice according to the laws of the land and the customs of this city.

S E C T. XVI.

Of St. Martin's le Grand Court.

THIS court, though within the city, is yet without its jurisdiction, as being in, and belonging to the liberty of that name, which is subject to the dean and chapter of *Westminster*: it is a court of record, held weekly on *Wednesday*, for the trial of all personal actions whatsoever; the principal whereof is a *capias* against the body, or an attachment against the goods; so that a man's goods may be seized upon in his own house, upon the first process, if his person is not secured before; which is according to the practice of all ancient liberties or franchises.

S E C T. XVII.

Of the Court of the Tower
of London.

THIS is a court of record held by prescription, within the verge of the city, on *Great Tower-hill*, by a steward appointed by the constable of the *Tower of London*; by whom are tried actions of debt (for any sum) damage, and trespass.

C H A P. V.

The Acts of Parliament concerning the Cities of London and Westminster, alphabetically digested.

General Statutes relating to the City of London.

BY *Magna Charta*, c. 9. It is provided that the city of *London* shall have all their ancient liberties and customs which they have used to have. See 2 *Inst.* 20.

Stat. Civ. London, 13 *Edw.* 1. stat. 5. sect. 1. None shall be found walking the streets of the city, after curfew rung at *St Martin's le Grand*, with spear or buckler, or other arms, unless he be a lord, or other man of known worth, or their messenger, or whom they will warrant; and if any man be found walking to the contrary, he shall

shall be taken up by the keepers of the peace, and the morrow he shall be carried before the mayor and aldermen. None shall keep a tavern open of wine, or of ale, after curfew; and none shall receive any in his house, for whom he will not answer to the king's peace; and if any taverner do otherwise, he shall be attached by good pledge, and be amerced forty pence; and for the second offence, he shall be amerced half a mark; and the third time ten shillings; and fourth time, twenty shillings; and the fifth time, he shall be fore-judged the trade for ever. None shall keep school or teach to fence, with buckler, within the city, on pain of imprisonment of forty days. None that is arrested for trespass or other misdemeanor against the king's peace, or for evil suspicion, shall be delivered by the sheriff without the award of the warden, or of the mayor and aldermen, unless the trespass be very small, and then good bail shall be taken, that he appear before the warden or the mayor and aldermen. And every alderman in his wardmote shall inquire of such disorders, and if any be found by indictment or evil suspicion, they shall be attached, and brought before the warden, or the mayor and aldermen, and if they cannot acquit themselves, they shall be punished by imprisonment or otherwise.

, Sect. 2. No man shall keep an inn or harbour others, within the city, unless he be a freeman, and have good testimony from whence he came, and find good pledges to the bailiffs of the city. And no brokers shall be within the city, but those who are received and sworn before the warden, or the mayor and aldermen. And if any other inn-keeper, or broker, be found within the city, or any other of whom there is evil suspicion, he shall be arrested by the warden or mayor, or the sheriff, or the alderman of the ward, and punished, viz. inn-keepers and brok-

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ers shall be incapable of the freedom, and adjudged to prison, and the others shall be punished by imprisonment or otherwise. And the officers shall not be sued for any punishment of misdoers, or suspicious persons, unless it be done by open malice.

Stat. *de gavellet*, 10 *Edw.* 2. it shall be lawful for them that have rents in *London*, to distrain their tenants for their arrearages; and if they have nothing in the fee, the tenant shall be impleaded by a writ of *gavellet* of customs and services in the hustings; and if they deny their services, the demandants shall name two witnesses, whose names shall be inrolled, and shall have a day to bring them forth at the next hustings; at which day if they bring forth witnesses, and it is shewed by them, that the plaintiffs have received the rents, the tenants shall lose their fees; if they will not acknowledge the services, the arrearages shall be doubled, and they shall give to the sheriff one hundred shillings, and if they do not come in after due summons in the hustings, the same fees shall be delivered unto the plaintiffs, to be holden in their own hands, for one year and a day, within which time if the tenants come, and do offer to satisfy the arrearages double, and the sheriff for his amerciamment, they shall have their tenements again. The same ordinance shall be observed if the tenants acknowledge the arrearages, and be not able to make satisfaction.

Stat. 28 *Edw.* 3. c. 10. sect. 1. The mayor, sheriffs, and aldermen, which have the governance of the city, shall cause to be redressed errors, upon a certain pain, *viz.* the first default, one thousand marks to the king, and the second default, two thousand marks, and the third default, that the franchise of the city be taken into the king's hand; and if they do not cause to be made due redress, it shall be inquired of their defaults

defaults by inquest of foreign countries: *viz.* of *Kent, Essex, Sussex, Hertford, Buckingham, and Berks*, as well at the king's suit as others.

Se^{ct.} 2. If the mayor, sheriffs, and aldermen, be by such inquest indicted, they shall be caused to come before the king's justices assigned, out of the city; and, if they put them in inquest, the inquest shall be taken by foreign people; and if they be attainted, the pain shall be levied of the mayor, sheriffs, and aldermen; and the plaintiff shall recover trebled damages against them; and the constable of the *Tower*, or his lieutenant, shall serve in the place of the sheriffs to receive the writs; and the process shall be made by attachment and distress, and by exigent if need be; so that, at the king's suit, the exigent shall be awarded after the first *capias* returned at the suit of the party; and, if the mayor, sheriffs, and aldermen, have lands out of the city, process shall be made against them by attachments and distresses in the counties where the lands be; and every of the said mayor, sheriffs, and aldermen, shall answer particularly for himself, as well at the peril of the other which be absent as of himself; and this ordinance shall extend to all cities and boroughs where such defaults be used, and not duly corrected; saving that the inquests shall be taken by foreign people of the county where such cities or boroughs be; and the pain of those of the said boroughs and towns shall be judged by the justices assigned.

In the first year of *Ricb.* 2. all the liberties of the city of *London* were confirmed in parliament, notwithstanding any statute to the contrary. *Cotton*, 165.

And 6 *Ric.* 2. it is enacted, at the request of the commons, that the city of *London* shall enjoy all such liberties as they had in the time of *Ed.* 3. or since. *Cotton*, 281.

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Also 7 Ric. it is enacted, that the citizens of London shall enjoy all their liberties, with this clause, *licet non usi vel abusi fuerant*, and notwithstanding any statute to the contrary, &c. See Cotton, 294. And a statute made 17 Ric. 2. enacts, that it is not the king's meaning, or intent, nor the meaning of the statute made 28 Ed. 3. that the mayors, sheriffs, and aldermen of London, that now are, heretofore have been, or hereafter shall be, should incur or bear the pains contained in the said stat. of Ed. 3. for any erroneous judgment given, or to be given, in the said city. See Cotton, 354.

Stat. 7 Ric. 2. c. 11. All vintners and victuallers, as well fishers as others, coming with their victuals to London, shall be under the rule of the mayor and aldermen.

Stat. 17 Ric. 2. c. 11. The aldermen of London shall not be elected yearly, but remain until they be put out for reasonable cause.

Stat. 1 Hen. 4. c. 15. The penalty in stat. 28 Ed. 3. c. 10. as well of the one hundred marks, as of the two hundred marks, and of the seizure of the franchise, shall not be limited in certainty, but be by the discretion of the justices assigned.

Stat. 1 Hen. 4. c. 16. The merchants of London shall be as free to pack their cloths as other merchants within the city, or within other cities and boroughs.

Stat. 3 Hen. 7. c. 9. Every freeman and citizen of London may go with his victual, or merchandise, to any fair or market within this realm; and the ordinance made in London to the contrary shall be void: and, if any person be prejudiced by occasion of the same, he that putteth any person to such prejudice; shall forfeit to the king forty pounds; and he that will sue for such forfeiture, shall have therefore an action of debt; the king to have execution of the one half, and he that sueth the other half.

Stat.

Stat. 7 Hen. 7. c. 5. The challenge called *Riens deus le gard*, shall be of no effect.

Stat. 35 Hen. 8. c. 10. sect. 1. It shall be lawful to the mayor and commonalty of *London* to enter into the grounds, as well of the king as of every other person, where they shall find any springs (so that it be not into their houses, gardens, orchards, or places inclosed with stone, brick, or mud walls) and there dig pits and ditches, to erect heads, lay pipes, and make vaults, and do all things necessary for the conveyance of the water to the city.

Sect. 2. The mayor shall, within one month after such ground is broken, pay unto the owners of the ground as much money as shall be adjudged by three or four indifferent men, to be assigned by the lord-chancellor, by the king's commission, at the cost of the mayor and commonalty; and all such sums shall be paid within ten days after the taxation; upon pain of the mayor to forfeit thirteen shillings and four pence; half of which forfeiture to be to the king, and the other moiety to the party grieved that will sue for the same; and the party shall have an action of debt against the mayor for the debt so taxed.

Sect. 3. If the men named by the lord chancellor do not agree in making such taxation, or the mayor do not tender a reasonable amends, the party whose soil shall be broken shall have his remedy against the mayor by action of trespass.

Sect. 4. If the mayor, or his workmen, be interrupted by any person, such person shall forfeit forty shillings; the half to the king, and the other moiety to the mayor and commonalty of *London*, to be recovered by action of debt, &c.

Sect. 5. It shall not be lawful to take away any water brought by pipes, or trenches, to the mansion of any persons for the use of their household; nor that any person shall undermine, or abate, any springs brought to the city, upon pain to forfeit

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feit to the party grieved treble damages; to be recovered by action of debt, &c.

Sect. 6. This act shall not give authority to enter or dig in any of the king's grounds without the king's licence.

Sect. 7. If the mayor and commonalty convey any water from any springs in *Hamstead heath*, they shall pay yearly to the bishop of *Westminster*, at the feast of *St. Michael*, one pound of pepper; and the mayor and commonalty shall, within three months after the erection of any heads and vaults upon the said heath, make to the bishop a grant with clause of distress, within any of their senements in *London*, when the pound of pepper shall be unpaid ten days, and it be demanded upon any court-day in *Guild hall*.

Sect. 8. The mayor and commonalty shall not meddle with the springs at the foot of the hill of *Hamstead brash*, closed in for the use of the inhabitants of *Hamstead*.

Sect. 9. It shall be lawful to the said bishop to convey, from any spring in any ground on the left side of the high-way leading from *Hamstead* towards *Hendon*, to the manor-place of *Hamstead*, water sufficient for the use of the manor-place.

See also divers other statutes for saving or confirming the liberties of *London* viz. 8 Hen. 6. c. 14. 1 Edw. 4. c. 1. 13 Edw. 4. c. 3. 17 Edw. 4. c. 5. 1 Ric. 3. c. 8. 1 Hen. 7. c. 7. 4 Hen. 7. c. 3. and 15. 6 Hen. 7. c. 18. 19 Hen. 7. c. 8. and 21. 1 Hen. 8. c. 5. of Prisage. 3 Hen. 8. c. 14. of Oils, &c. 6 Hen. 8. c. 7. of Watermen. 13 Hen. 8. c. 8. of Orphans. 27 Hen. 8. c. 21. of Tithes. 27 Hen. 8. c. 24. of Franchises. 32 Hen. 8. c. 14. of Freight. 32 Hen. 8. c. 20. of Franchises. 33 Hen. 8. c. 39. of Courts. 37 Hen. 8. c. 12. of Tithes. And 25 Hen. 8. of Conduits. See also 1 Ma. c. 9. of Physicians. 1 and 2 Ma. c. 13. of Bail. 2 and 3 Ph.

3 *Ph. and Ma. c. 36.* of Watermen. 4 and 5 *Ph. and Ma. c. 18.* of Drapery.

And for other statutes touching the said city, see the respective alphabetical titles following.

Particular Statutes relating to the cities of London and Westminster, alphabetically digested.

THE customs of the city of *London* are saved Administration and excepted out of the statute 22 and 23 *Car. 2.* tion.
c. 10. for the distribution of intestates estates.

See Election.

Aldermen.

By the statute 14 *Hen. 8. c. 2.* All aliens, in or Aliens.
about *London*, shall be within the governance of the corporation of the mystery or craft whereof they are, and taxable to their mystery. Herein strangers dwelling in *St. Martin's le Grand*, are excepted. And a decree made in the star-chamber, 20 *Hen. 8.* was by stat. 21 *Hen. 8. c. 16.* confirmed, and thereby it was enacted, that such strangers should pay scot and lot, tax, and tallage, &c. as the master, wardens, and companies do; and that they shall make oaths, and do other things. Here also strangers dwelling in *St. Martin's le Grand*, are excepted. And by stat. 22 *Hen. 8. c. 8.* there is an exception for the merchants of the *Still-yard*; that they shall not pay any other customs than they used by their franchises. And by stat. 32 *Hen. 8. c. 16.* No alien, artificer, denizen, or not denizen, in *St. Martin's le Grand*, shall keep above two strangers, servants at one time.

See title *Jury*.

Annoyance.

By stat. 6 *Will. 3. c. 3.* Apothecaries of the Apotheca-
city of *London* are exempted from the offices of rics.
constable, scavenger, overseers of the poor, and
other parish, ward and leet offices, and of and
from serving upon any juries or inquests.

By Stat. 11 *Geo. 1. c. 18.* Persons aggrieved Appeals.
by assessments made for the city, may appeal to

the mayor and court of aldermen, or the proper officer to whom the appeal lieth; who may correct and settle the rates and assessments, &c.

Affes.

See title *Ballast*.

Attaints.

See page 155.

Bakers.

See title *Bread*.

Ballast.

See stat. 32 Geo. 2. For the better regulation of lassage and ballastage in the river *Thames*, and to prevent palling of rubbish, ashes, dirt, or soil, into the said river, and in the streets, passages, and kennels, in *London*, and in the suburbs thereof, in *Middlesex* and *Westminster*; and such part of the duchy of *Leicester*, as is in *Middlesex*, &c.

Barber.

For the penalty of adulterating powder, see stat. 4 Geo. 2. c. 14.

Basset.

See title *Gaming*.

Bawdy-house.

Stat. 25 Geo. 2. c. 36. sect. 5. If any two inhabitants of any parish or place, paying scot, and bearing lot therein, give notice in writing to any constable (or other peace officer, where there is no constable) of such parish, &c. of any person keeping a bawdy-house, gaming-house, or any disorderly house, in such parish, &c. the constable or officer, receiving such notice, shall forthwith go with such inhabitants, to a justice of peace of the county or liberty, and shall, upon such inhabitants making oath before such justice, that they believe the contents of such notice to be true, and entering into a recognizance in the penal sum of twenty pounds each, to give or produce material evidence against such person for such offence, enter into recognizance in the penal sum of thirty pounds, to prosecute with effect such person for such offence; at the next general or quarter sessions of the peace, or at the next assizes, for the county in which such place lies, as to the said justice shall seem meet; and such constable, &c. shall be allowed the expenses of such prosecution, to be ascertained

trained by two justices of peace of the county, &c. where the offence shall have been committed, and shall be paid the same by the overseers of the poor of such parish, &c. and in case such person be convicted, the overseers of the poor of such parish, &c. shall pay ten pounds to each of such inhabitants; and in case such overseers neglect to pay to such constable, &c. such expences of prosecution, or neglect to pay upon demand the said sum of ten pounds, and ten pounds, each overseers, and each of them, shall forfeit to the person intitled to the same, double the sum so neglected to be paid.

Sect. 6. Upon such constable, &c. entering into such recognizance to prosecute, the justice shall make out his warrant to bring the person accused before him, and shall bind him over to appear at such general or quarter session, or assizes, to answer to such indictment as shall be found against him; and such justice may, if he thinks fit, take security for such person's good behaviour in the mean time.

Sect. 7. In case such constable shall neglect, upon such notice, to go before any justice of the peace, or to enter into such recognizance; or shall be wilfully negligent in carrying on the prosecution, he shall for every such offence forfeit twenty pounds, to each of such inhabitants, for giving notice.

Sect. 8. Any person who shall appear, act, or behave him or herself, as master or mistress, or as having the management of any bawdy-house, gaming-house, or other disorderly house, shall be deemed the keeper thereof, and shall be liable to be punished as such, notwithstanding he or she shall not be the real owner or keeper.

Sect. 9. Upon any such prosecution against any person for keeping a bawdy-house, gaming-house, or other disorderly house, any person may give evidence against the defendant, or on the behalf

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behalf of the defendant, notwithstanding his being an inhabitant of the parish, or having entered into such recognizance.

Sect. 13. No indictment preferred against any person for keeping a bawdy-house, gaming-house, or other disorderly house, shall be removed by any writ of *certiorari*, into any other court; but shall be tried and finally determined, at the same general or quarter-sessions, or assizes, where such indictment shall have been preferred, unless the court think proper, upon cause shewn, to adjourn the same.

Sect. 13. Any person intitled to any of the forfeitures by this act imposed, may sue for the same by action of debt in any court of record at *Westminster*, in which it shall be sufficient to declare, that the defendant is indebted to the plaintiff in the sum of being forfeited by an act, intitled, "An act for the better preventing thefts and robberies, and for regulating places of public entertainment, and punishing persons keeping disorderly houses:" and the plaintiff, if he recover, shall have his full costs.

Sect. 14. No action shall be brought by virtue of this act, unless the same be commenced within six kalendar months after the offence committed.

Sect. 15. This act shall continue for three years from the first day of this session of parliament, and to the end of the then next session.

Made perpetual by 28 Geo. 2. c. 19. sect. 1.

Beer.

See the statutes 16 Geo. 2. c. 8. 17 Geo. 2. c. 17. 24. Geo. 2. c. 40. 30 Geo. 2. c. 19. 28 Geo. 2. c. 19. relative to the selling wine, ale, beer, and spirituous liquors, without licence.

Beggars.

See title *Vagrants*.

Bell-metal.

See title *Brass*.

Billinggate-market.

By stat. 10 Will. 3. c. 24. sect. 1. It is enacted, that *Billinggate-market* within the city of *London*, shall be every day (except *Sundays*) a free

free market for all sorts of fish, and that any persons may buy or sell any sort of fish in the said market.

Sect. 3. And all persons buying any fish in the said market, may sell the same again in any other market or place, within *London*, or elsewhere, by retail; being sound and wholesome fish; except that none but fishmongers shall sell in public or fixed shops, or houses.

Sect. 7. No persons shall employ or be employed by any other person in buying at *Bil-linggate*, any quantity of fish, to be divided by lots, or in shares, amongst any fishmongers, or others, to be afterwards sold by retail or otherwise; nor shall any fishmonger ingross, or buy, in the said market, any quantity of fish, but what shall be for his own sale or use, and not for any other fishmonger to sell again, under penalty of twenty pounds, for each offence, one moiety to the poor of the parish, the other to the prosecutor. See *fish*.

By stat. 8 and 9 *Will. 3. c. 9. sect. 1.* It is *Blackwell-hall* enacted, that the public market of *Blackwell-hall-market*, shall be held every *Thursday, Friday, and Saturday*, from eight till twelve, in the forenoon, and from two till five, in the afternoon, except days of humiliation or thanksgiving; and the keepers are not to admit any buying or selling of any woollen cloth at the said hall, upon any other days, or hours, than aforesaid, upon the penalty of one hundred pounds.

Sect. 3. And no factor, or any person whatsoever, other than the owner of the cloth, shall sell or expose to sale, out of the said market of *Blackwell-hall*, any cloth directed to be brought to the said market, or any factor there, upon penalty of five pounds for every cloth so sold.

Sect. 4. Several other penalties upon the hall-keepers, clerks, and master-porters, neglecting

lessing their duties; and upon factors for not giving true accounts to the clothiers.

Brass and
pewter.

By stat. 19 *Hen. 7. c. 6.* None shall cast brass or pewter, but according to the goodness of the metal wrought in *London*, on pain to forfeit one moiety thereof to the king, and the other to the finder. Also hollow-ware of pewter, called lay-metal, shall be wrought after the assize of lay-metal in *London*, and shall be marked, on pain to forfeit the said wares, or being sold, the price thereof, which shall be divided as aforesaid.

By statute 29 *Geo. 2. c. 30.* It is enacted, that every person who shall buy or receive any lead, iron, copper, brass, bell-metal, or solder, knowing the same to be stolen, or unlawfully come by; or shall privately buy or receive, any stolen lead, iron, copper, brass, bell-metal, or solder, by suffering any door, window, or shutter, to be left opened, or unfastened, between sun-setting and sun-rising for that purpose; or shall buy or receive the same or any of them, at any time in any clandestine manner, from any person or persons whatsoever, shall, on conviction, although the principal felon has not been convicted of stealing the same, be transported for fourteen years.

Bread.
Brokers and
stock-job-
bers.

See stat. 31 *Geo. 2. c. 29.*

By charter of king *Edw. 3.* It is granted that there should be no brokers but those who were chosen by the merchants of the city of *London*, who belong to the mystery, in which the said brokers exercise their office; and no stranger should be a broker in the said city. And king *Char. I.* by his charter, grants to the mayor, commonalty and citizens of *London*, the office of brokers of pawns. But by stat. 1 *Jac. 1. c. 21. sect. 5.* The sale of goods wrongfully taken to any broker or pawn-taker in *London, Westminster, Southwark,*

Southwark, or within two miles of *London*, shall not alter the property.

Sect. 7. If a broker having received such goods, shall not upon request of the owner discover them, how and when he came by them, and to whom they are conveyed, he shall forfeit the double value thereof to the said owner, to be recovered by action of debt, &c. in any of the king's courts of record at *Westminster*, or within *London*.

Sect. 8. This act shall not prejudice the antient trade of brokers in *London*, between merchants and traders, being selected and sworn for that purpose.

Stat. 6 Ann. c. 16. sect. 4. All persons that shall act as brokers within *London*, shall be admitted by the court of mayor and aldermen, under such restrictions for their good behaviour as the court shall think fit; and shall, upon their admission, pay to the chamberlain forty shillings, and shall also yearly pay forty shillings upon the twenty-ninth of *September*, for the use of the mayor and commonalty, and citizens of the city of *London*.

Sect. 5. If any person shall take upon him to act as a broker, or employ any under him to act as such within the said city, not being admitted: every such person shall forfeit to the mayor and commonalty, &c. for every offence, twenty-five pounds, to be recovered by action of debt in the name of the chamberlain, in any of her majesty's courts of record.

Stat. 10 Ann. c. 19. sect. 121. Every person employed as a broker, solicitor, or otherwise, in behalf of any other person, to make any bargain or contract, for the buying and selling of any tallies, orders, &c. or interest in any joint stock erected by act of parliament, or letters patent, or bonds of any company thereby erected, who shall take any money or reward exceeding two shillings and nine pence, for every one hundred pounds,

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pounds, and so in proportion, for his service in soliciting or procuring, such contract or bargain, shall forfeit twenty pounds, with costs, to such person as will sue for the same, in any of her majesty's courts of record at *Westminster*.

Stat. 6 Geo. 1. c. 18. sect. 18. All undertakings by public subscriptions, relating to fisheries and other affairs of trade, and acting as corporate bodies without charter, or under charters intended for other purposes, or under obsolete charters, and tending to the common grievance of his majesty's subjects in their trade, and all public subscriptions, receipts, payments, transfers, and other things for proceeding in such undertaking, and particularly the acting as a corporate body by raising transferrable stocks, the transferring any share in such stocks without legal authority; and all acting under any charter formerly granted for particular purposes therein expressed, by persons who shall use or endeavour to use the same charters for raising a capital stock, or for making transfers of such stock, not intended by such charter to be raised or transferred, and all acting under any obsolete charter, become void or voidable, by nonuser or abuser, or for want of making lawful election, shall be deemed illegal and void.

Sect. 19. All such unlawful undertakings and all proceedings therein shall be deemed publick nuisances, and all offenders therein being convicted upon information or indictment, in any of his majesty's courts of record at *Westminster*, *Edinburgh*, or *Dublin*, shall be liable to such punishments whereto persons convicted for publick nuisances, are by any laws of this kingdom liable; and shall moreover incur such farther pains, &c. as were provided by the statute of provision and *præmunire*. 16 Ric. 2. c. 5.

Sect. 20. If any merchant or trader shall suffer any particular damage by occasion of any undertaking,

taking, &c. by this act declared unlawful, he shall have his remedy by action on this statute in any of his majesty's courts of record, and shall recover treble damages with costs.

Sect. 21. If any broker, or person acting as a broker, for himself or in behalf of any others, shall bargain, sell or buy, or contract for, any share or interest in any of the undertakings here- by declared unlawful, he shall not only be dis- abled to act as a broker, but shall also forfeit five hundred pounds, one moiety to the king, the other to the informer with costs.

Sect. 22. Nothing herein shall extend to any undertakings established before the 24th of June, 1718.

Sect. 23. This act shall not prejudice the two corporations for assurance of ships, &c.

Sect. 24. This act shall not hinder the *South- sea* company from enjoying such powers as be- long to them, except as to insurance upon ships and merchandize at sea or going to sea.

Sect. 25. This act shall not restrain the carry- ing on of any home or foreign trade in partner- ship, except only as to the insuring of ships, and lending money to bottomry.

Sect. 27. Nothing in this act shall extend to any corporation formerly erected for the carrying on a trade, which they have publickly continued to exercise; or to subscriptions for enlarging the capital stock of the *South-Sea* company.

Sect. 28. Nothing herein shall extend to hin- der the *East-India* company from enjoying all such power as belong to them.

Stat. 3 Geo. 2. c. 31. sect. 1. No person shall exercise the employment of a broker within the city of *Bristol*, or within five miles thereof, in making bargains between merchant and mer- chant, or tradesmen, or other persons, concern- ing their merchandizes to be bought and sold, or concerning monies to be taken up by exchange.

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that he shall be first admitted by the mayor, aldermen, and common council of *Bristol*, and such restrictions for his good behaviour; and as to fees, and the number of brokers, as the said mayor, &c. shall think fit.

Sect. 2. Upon the admittance of any broker, such person shall take his oath to effect following, *viz.*

"I *A. B.* do sincerely promise and swear, that I will truly and faithfully execute and perform the office and employment of a broker, between party and party, in all things appertaining to the duty of the said office and employment, without fraud or collusion, to the best of my skill and knowledge, and according to the tenor of the act, intituled, An act for the admission and regulation of brokers within the city of *Bristol*."

Sect. 3. Which oath the mayor and court of aldermen of *Bristol*, shall administer; and every such person, at the time of his admittance, shall with sureties enter into obligation to the mayor, &c. of the penalty of two hundred pounds, with condition there under-written, to the effect following, *viz.*

"The condition of this obligation is such, that whereas the above bounden *A. B.* is sworn and admitted a broker, pursuant to the statute in that behalf lately made; now therefore, if the said *A. B.* do and shall will and truly use, and execute, and perform the employment and office of a broker between party and party, without fraud, covin, or any corrupt or crafty devices, according to the purport, true intent and meaning of the said statute in that case lately made and provided, then this obligation to be void, or else to remain in full force and virtue."

Sect. 4. Every person at the time of his admittance, shall pay to the town clerk of *Bristol* ten shillings, as the fee of admittance.

Sect. 5.

Sect. 5. The mayor and court of aldermen shall order the names of all such brokers, and the places of their habitations, to be affixed on the shalvet, and in the council-house, and other publick places within the city.

Sect. 6. If any person shall act as a broker, not being sworn and admitted, he shall forfeit one hundred pounds. And if any person shall knowingly employ any person as a broker, not being sworn, &c. he shall forfeit fifty pounds.

Sect. 7. Every sworn broker shall keep a broker's book, in which he shall enter all contracts that he shall make, within three days after making, with the parties names; and if such broker shall omit to enter such contract, &c. he shall forfeit twenty pounds.

Sect. 8. Every such broker shall carry about him a medal of silver, upon which shall be his majesty's arms, and on the reverse, the arms of the city of *Bristol*, with the name of such broker, which medal he shall produce, if required; as the concluding of every bargain by him made, to the parties concerned, on pain to forfeit five pounds.

Sect. 9. If any such broker shall deal for himself in remittance of monies, or buy any goods to sell again for his own benefit, or shall make profit in buying or selling any goods, &c. for the benefit of any other person, save in the way of a broker only, he shall forfeit for the first offence twenty pounds, for the second offence fifty pounds, and for the third offence one hundred pounds, and be convicted of such third offence as shall be incapable to act as a broker within the city of *Bristol*.

Sect. 10. All forfeitures given by this act shall be recovered by action of debt, &c. in any of his majesty's courts of record; one moiety whereof shall be to the use of the poor of the
corpo-

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corporation of *Bristol*, and the other moiety to him who shall sue for the same.

Sect. 11. This act shall be a publick act.

Stat. 7 Geo. 2. c. 8. sect. 1. All contracts, upon which any premium shall be given for liberty to put upon, deliver, accept or refuse, any publick stock or securities, and all wagers, puts and refusals, relating to the present or future price of stock or securities, shall be void; and all premiums upon such contracts or wagers shall be restored to the person who shall pay the same, who shall be at liberty, within six months from the making such contract, or laying such wager, to sue for the same, with double costs; and it shall be sufficient therein for the plaintiff to alledge that the defendant is indebted to the plaintiff, or has received to the plaintiff's use, the money or premium so paid, whereby the plaintiff's action accrued, according to the form of this statute, without setting forth the special matter.

Sect. 2. Persons, who by this act shall be liable to be sued, shall not be obliged to answer upon oath such bill as shall be preferred in equity, for discovering any such contract or wager, and the premium given.

Sect. 3. Provided that the plaintiffs, relators, or informers, of such bill, give security to answer costs.

Sect. 4. Every person who shall make any such contract, upon which any premium shall be given for liberty to put upon, deliver, accept, or refuse any publick stock, or securities, or any contract in the nature of puts and refusals, or shall lay any wager (except such who shall *bona fide* sue) and with effect prosecute, for the recovery of the premium paid by them; and except such who shall voluntarily before suit commenced, repay or tender such premium as they shall have received; and also except such who shall discover

discover such transactions in any court of equity) shall forfeit five hundred pounds, and all persons negotiating or writing such contract, shall likewise forfeit five hundred pounds, which penalties may be recovered by action of debt or information in any of his majesty's courts of record at *Westminster*; one moiety to his majesty, and the other moiety to them who shall sue for the same.

Sect. 5. No money or other consideration shall be voluntarily given or received for the compounding any difference for the not delivering or receiving any publick stock or securities; but all such contracts shall be specially executed; and all persons who shall voluntarily compound such difference, shall forfeit one hundred pounds, one moiety to his majesty, and the other moiety to them who shall sue for the same.

Sect. 6. No person who shall sell stock to be delivered and paid for on a certain day, and which shall be refused or neglected to be paid for, shall be obliged to transfer the same; but it shall be lawful for such persons to sell such stock to any other, and to receive or recover from the person who first contracted for the same, the damage which shall be sustained.

Sect. 7. It shall be lawful for any person, who shall buy stock to be accepted and paid for on a future day, and which shall be refused or neglected to be transferred, to buy the like quantity of such stock of any other person, at the current market prices, and to recover and receive from the person who first contracted to deliver the same, the damage sustained.

Sect. 8. All contracts which shall be made for the buying or transferring of stock, whereof the person, on whose behalf the contract shall be made to transfer the same, shall not at the time of making such contract be actually possessed in his own right, or in the name of trustees, shall be void; and every person on whose behalf, and with whose consent, any contract shall be made

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made to sell stock, whereof such person shall not be actually possessed in his own name, or in the name of trustees, shall forfeit five hundred pounds, one moiety to his majesty, and the other moiety to them who shall sue for the same; and every broker or agent, who shall negotiate any such contract, and shall know that the person, on whose behalf such contract shall be made, is not possessed of stock, shall forfeit one hundred pounds, one moiety to his majesty, and the other moiety to them who shall sue for the same.

Sect. 9. Every person receiving brokerage in the buying or disposing of stocks, shall keep a broker-book, in which he shall enter all contracts, with the names of the principal parties; and such broker, who shall not keep such book, or shall wilfully omit to enter any such contract, shall forfeit fifty pounds, one moiety to his majesty, and the other moiety to them who shall sue for the same.

Sect. 10. Nothing in this act shall extend to any contracts for the purchase or sale of stock, to be made with the privity of the accountant-general of the court of chancery, in pursuance of any decree or order of the said court.

Sect. 11. Nothing in this act shall hinder any person from lending money on stock, so as no premium be paid more than legal interest.

Sect. 12. This act shall continue three years.
Made perpetual 10 Geo. 2. c. 8.

Stat. 14 Geo. 2. c. 37. (Sect. 1. Whereas persons have published in *America*, a scheme for supplying a pretended want of a medium in trade, by setting up a bank on land security, subscribers to which were to promise to receive bills as money, and, after twenty years, to pay the possessor the value thereof in manufactures; and other schemes and partnerships having been set on foot in *America*, for raising publick stocks, or banks, and unlawfully issuing notes; and doubts have arisen,

arisen, whether the act 6 Geo. I. c. 18. doth extend to the plantations in *America*, in regard that informations, or indictments and actions against offenders, were appointed to be heard in some court at *Westminster*, or in *Edinburgh*, or in *Dublin*; be it enacted, that the said act did and shall extend to all the public and unwarrantable practices before mentioned, and did and shall extend to all his majesty's plantations in *America*; and that all the undertakings in the said act prohibited, and all the undertakings herein before mentioned, are illegal and void in his majesty's plantations in *America* also, and shall not there be practised; and that all offenders against the said or this act, being convicted upon information, or indictment, in any court of record in any of his majesty's plantations in *America*, shall be liable to the like fines and punishments whereunto persons convicted in *Great Britain* for publick nuisances are liable; and shall incur any further penalties, as were ordained by the statute of provision and præmunire, 16 Rich. 2. c. 5: and, that, if any person hath, or shall, suffer any damage by means of any undertaking carried on in *America*, and by this or the said act declared to be illegal, and will sue to be relieved therein, such person shall have his remedy by any action grounded upon this act, against any of the persons engaged in any such unlawful undertaking; and every such action for what hath been or shall be done in *America*, shall be heard in any court of record within any of the plantations in *America*; and in every such action, the plaintiff, in case he recover, shall recover treble damages with costs.

Sect. 2. Every person possessed of, or intitled to, any promissory note, issued by any such societies or companies in *America*, shall commence, at any time hereafter, his action in any court of record, in any of the plantations in *America*; against

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the persons or companies who have or shall issue such notes, or against any one or more of them who have been, within six years last past, or shall be, engaged in any such unlawful undertaking, or who signed such note in order to recover present payment in money of the sum mentioned in such note, to which payment every such person is hereby declared to be personally liable; and in such actions the plaintiff shall have judgment for immediate payment by the defendant, in money, of the full sum mentioned in such note, together with the lawful interest for the same from the date of such note, with costs; although the time limited for payment, according to the tenor of such note, be not then come.

Sect 3. Nothing herein shall inflict any of the penalties, or treble damages, aforesaid, upon any person who hath attempted, or carried on, in *America*, any of the things declared to be illegal and void by this or the said act; if such person, within ten days after demand, pay such sum of money secured by such note; and forbear to act further, directly or indirectly, in any such matter, on or before the twenty-ninth of *September*, 1741.

Stat. 30 *Geo. 2. c. 24. sect. 2.* If any person knowingly and designedly pawn, or exchange, or unlawfully dispose of, the goods of any other person, not being employed or authorised by the owner, and be convicted by the oath of any credible witness, or by confession before any justice of peace, every such offender shall, for every such offence, forfeit twenty shillings; and, in case the said forfeiture be not forthwith paid, the justice before whom such conviction is had, shall commit the party convicted to the house of correction, or some other publick prison of the county or place wherein the offender resides or is convicted, to be kept to hard labour for fourteen days, unless the forfeiture be sooner paid; and if within three days before the expiration of the said fourteen days

days, the forfeiture be not paid, the justice is to order, upon the application of the prosecutor, the person so convicted to be publickly whipped in the house of correction, or prison, to which he is committed, or in some open publick place of the city or place wherein the offence is committed; and the said forfeitures shall be applied towards making satisfaction to the party injured, and defraying the costs of prosecution, as shall be adjudged reasonable by the justice; but if the party injured decline to accept of such satisfaction and costs, or if there be any overplus, such forfeitures or overplus shall be applied to the use of the poor of the parish or place where the offence is committed, and shall be paid to the overseers of the poor of such parish.

Sect. 4. Every person who shall take, by way of pawn, pledge, or exchange, any goods, shall forthwith cause to be entered in a regular manner in a book, a description of the goods which he receives in pawn, &c. and the sum advanced, or paid thereon, with the day of the month, and year on which, and the name and place of abode of the person by whom such goods so pawned, &c. and the name and place of abode of the owner, according to the information of the person pawning, &c. the same; and shall at the same time give a copy thereof to the person so pawning, &c. if required; for which the person giving such copy shall be paid by the person pawning, &c. one half-penny on goods pawned for less than twenty shillings, and one penny on goods pawned for twenty shillings, and not exceeding five pounds, and for every such duplicate upon goods pawned for any larger sum, two pence; and in default of making such entry and giving such duplicate, if required, he or she shall for every offence forfeit five pounds, to be levied by distress and sale of goods, by warrant of any justice of the peace of the county or place

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where the offence is committed; which forfeitures shall be applied to the use of the poor of the parish or place wherein the offence is committed.

Sect. 5. If in the course of any of the aforesaid proceedings, before any justice of peace, under this act, it appear to the satisfaction of the justice, upon oath or solemn affirmation, that any of the goods pawned are become of less value than the same were at the time of pawning, thro' the default, neglect, or wilful misbehaviour of the person to whom the same were pawned, his executors, administrators or assigns, or servants, such justice is to award satisfaction to the owner, in respect of such damage; and the sum so awarded shall be deducted out of the principal and interest, and allowance for warehouse-room appearing due to any person to whom the same were so pawned, his executors, &c. and where the goods pawned are damaged, it shall be sufficient for the pawner, his executors, &c. to pay or tender the money upon the ballance, after deducting out of the principal and interest and money payable for warehouse-room, such satisfaction, in respect to such damage, as such justice shall order; and upon so doing the justice shall proceed as if the pawner, his executors, &c. had paid or tendered the whole money due for the principal, interest, and warehouse-room.

Sect. 6. If any person knowingly buy or take in as a pledge, any linen or apparel, intrusted to any other person to wash, scour, iron, mend, or make up, and be convicted of the same, on the oath of one witness, or on confession, before a justice, such person shall forfeit double the sum given for or lent on the same, to be paid to the poor of the parish where the offence is committed, to be recovered as other forfeitures by this act, and shall restore the said goods to the owner in the presence of the justice.

Sect. 7.

Sect. 7. In case any person who shall offer, by way of pawn, pledge, exchange, or sale, any goods, be not able, or refuse to give a satisfactory account of himself, or of the means by which he became possessed of such goods, or if there be reason to suspect that such goods are stolen or illegally or clandestinely obtained; it shall be lawful for any person to whom such goods are so offered, or his servants, to seize and detain such person and the goods, and to deliver such, as soon as may be, to the constable or other peace officer, who shall immediately convey such person and the goods before some justice of peace of the county or place wherein the offence is committed; and if such justice, upon examination, suspect that the goods were stolen, or illegally or clandestinely obtained, it shall be lawful for such justice to commit such person into safe custody, for any time not exceeding six days, to be further examined; and if upon either of the said examinations it appear to such justice, that the goods were stolen, or illegally or clandestinely obtained, the justice is to commit the party offending to the common gaol or house of correction, of the county or place where the offence is committed, there to be dealt with according to law.

Sect. 8. In case such goods so seized and detained afterwards appear to be the property of the person who offered the same to be pawned, pledged, exchanged or sold, or that he was authorized by the owner to pawn, &c. the same, then the person who shall so seize or detain the party who offered the said goods, shall be by this act indemnified for having so done.

Sect. 9. If the owner of any goods unlawfully pawned, pledged, or exchanged, make out, either on his own oath, or by the oath of any witness, or (being a Quaker) by affirmation, be-

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fore any justice of peace, that such owner had had his goods unlawfully obtained from him; and that there is cause to suspect that any person within the jurisdiction of such justice, hath knowingly and unlawfully taken to pawn, or in exchange, any goods of such owner, and without the privity of, or authority from such owner; and make appear to such justice probable grounds for such suspicion, then any justice of peace within his jurisdiction may issue his warrant for searching, in the day-time, the house or other place of any such person charged as aforesaid. And if the occupier of any house, &c. wherein such goods are charged to be, on request to open the same by any peace officer authorized to search, refuse to open the same, and permit the same to be searched, it shall be lawful for such peace officer to break open such house, &c. in the day-time, and to search for the goods suspected to be there, doing so wilful damage. And if any person oppose such search, and be thereof convicted before any justice by the oath of one witness, every person so offending shall forfeit, for every such offence, five pounds; and in case such forfeiture be not paid within twenty-four hours, the justice shall commit the party convicted to the house of correction, or some other prison of such county or place, to be kept to hard labour for any time not exceeding one month, nor less than five days, unless in the mean time such forfeiture be paid; and such forfeiture shall be applied to the use of the poor of the parish wherein such offence is committed. And if upon the search of the house, &c. of such suspected person, any of the goods so knowingly and unlawfully pawned, pledged, or exchanged, be found, and the property of the owner from whom the same were unlawfully obtained, be made out to the satisfaction of such justice, by the oath of one witness

ness, or (if such witness be a Quaker) by affirmation; or by the confession of the person charged with such offence, such justice shall cause the goods found on such search, and unlawfully pawned, &c. to be restored to the owner.

Sect. 10. If any goods or chattles be pawned for securing any money lent thereon, not exceeding in the whole the principal sum of ten pounds, and the interest thereof; and if within two years after the pawning, proof having been made on oath by one witness, or by producing a duplicate of the entry directed to be given by this act, before any justice (or by affirmation, if the person be a Quaker) to the satisfaction of such justice, of the pawning such goods within the said two years, any such pawner who was the owner of such goods at the time of pawning, his executors, &c. shall tender unto the person who lent on the security of the goods pawned, his executors, &c. the principal money borrowed thereon, and all interest due for the same, with charges for warehouse-room as shall be agreed on at the time of pawning; and the person who took such goods in pawn, his executors, &c. shall neglect to deliver back the goods so pawned, to the person who borrowed the money thereon, his executors, &c. on oath (or if the person be a Quaker, on affirmation) by the pawner, his executors, &c. or some other person, any justice of the peace of the county or place, where the person who took such pawn, his executors, &c. dwell, on application of the borrower, his executors, &c. is to cause such person who took such pawn, his executors, &c. within the jurisdiction of the justice, to come before such justice; and such justice is to examine on oath or affirmation, the parties, and such other persons as appear, touching the premises. And if tender of the principal money due, and all interest thereof, together with charges for warehouse-room, be proved to have

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been made. (such principal money not exceeding ten pounds, to the lender, his executors, &c. by the borrower, his executors, &c. within the said two years after the said pawning, then on payment by the borrower his executors, &c. of such principal money, and the interest due thereon, with charges for warehouse-room, to the lender, his executors, &c. and in case the lender his executors, &c. refuse to accept thereof on tender before such justice, such justice shall by order under his hand direct the goods so pawned forthwith to be delivered to the pawner, his executors, &c. And if the person who lends any money, not exceeding in the whole ten pounds, on any goods pawned, his executors, &c. neglect to deliver up or make satisfaction for the goods proved to have been so pawned, as such justice shall order, such justice shall commit the party so refusing to deliver up or make satisfaction, to the house of correction, or some other publick prison of the county or place wherein the offender resides, or is convicted, until he deliver up the goods so pawned and continuing redeemable, according to the order of such justice, or make satisfaction for the value, to the party intitled to the redemption of such goods.

Sect. 11. If any pawn of goods, made by or for the proprietor, remain unredeemed for two years, every such pawn shall be forfeited; and it shall be lawful for every such person to whom such goods have been pawned, to sell the same; subject to account for the overplus of the produce of such goods, as by this act is directed.

Sect. 12. Every person to whom any goods are pawned shall enter in a book an account of the sale of all goods pawned for two pounds or upwards, sold by such person, expressing the day when, the money for which, and the name and place of abode of the person to whom, such goods pawned were sold, and in case such goods
be

be sold for more than the principal money with interest, and the charge of warehouse-room due at the time of sale, the overplus shall be paid, on demand, to the person on whose account such goods were pawned, his executors, &c. And such person who pawned such goods, his executors, &c. shall be permitted to inspect the entry of every such sale, paying for every such inspection one penny. And in case any person refuse to permit such person who pawned such goods to inspect such entry, such person, if an executor, administrator, or assignee, producing his letters testamentary, letters of administration or assignment; or in case the goods were sold for more than the sum entered; or if any such person make not such entry, or have not *bona fide* sold the goods pawned for the best price that he might have had without wilful default; or refuse to pay such overplus upon demand to the pawner, his executors, &c. every person so offending, shall for every offence forfeit treble the value of such goods, to the person on whose account such goods were pawned, his executors, &c. to be recovered by action of debt, &c. in any court of record at *Westminster*.

Sect. 13. No fee or gratuity shall be taken for any summons or warrant granted by any justice of the peace in pursuance of this act, so far as the same relates to goods pawned, pledged, taken in exchange, or unlawfully disposed of.

Sect. 18. In all actions, trials, and other proceedings in pursuance of this act, any inhabitant of the parish or place, in which any offence is committed contrary to this act, shall be admitted to give evidence, and be deemed a competent witness, notwithstanding his being an inhabitant.

Sect. 19. The justice before whom any person shall be convicted as prescribed by this act, shall

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cause such conviction to be drawn in the form, or to the effect following, *viz.*

To wit { *BE it remembered, that on this*
day of in the year of his
majesty's reign, A. B. is convicted before of
his majesty's justices of the peace, for the said
county of or for the riding, or divi-
sion of the said county of or for the city,
liberty, or town of (as the case shall be)
for and the said do adjudge him or
her to pay and forfeit for the same, the sum of
Given under the day and year afore-
said.

And the said justice shall cause the same to be written upon parchment, and transmitted to the next general quarter session of the peace for the county, &c. wherein such conviction was had, to be filed among the records of the said sessions. And in case any person so convicted appeal from the judgment of the justice to the general or quarter sessions, the justices in sessions are, upon receiving the conviction, to proceed to the hearing of the appeal, according to the directions of this act.

Sect. 20. No certiorari shall be granted to remove any indictment, conviction, or other proceedings in pursuance of this act.

Sect. 21. If any person convicted of any offences punishable by this act, think himself aggrieved by the judgment of the justice or justices before whom he is convicted, such person may appeal to the next general or quarter sessions of the peace for the county, &c. where such judgment is given; and the execution of the judgment shall be suspended, the person convicted entering into a recognizance at the time of conviction, with two sureties in double the sum adjudged to forfeit, upon condition to prosecute such

such appeal with effect, and to abide the judgment of the justices in sessions; which recognizance the justice before whom such conviction shall be, is to take; and the justices in sessions are finally to determine the appeal, and to award such costs as to them appear just, to be paid by either party; and if upon hearing the appeal, the judgment of the justice before whom the appellant was convicted, be affirmed, such appellant shall immediately pay the sum adjudged with costs, as the justices in sessions award; or in default of making such payments, shall suffer the pains and penalties by this act inflicted upon persons who neglect to pay the respective forfeitures.

Sect. 22. No person by this act punished for any offence, shall be punished for the same offence under any other law. And if any action be commenced for any thing done in pursuance of this act, the defendant may plead the general issue; and if the plaintiff be non-suited, &c. the defendant shall recover treble costs.

Sect. 23. The 24 Geo. 2. c. 44. concerning justices of peace, so far as it relates to the rendering the justices more safe in the execution of their office, shall extend to justices of peace acting in execution of this act. And no action shall be commenced against, or writ issued out, or copy of writ served upon, any peace officer for any thing done in the execution of this act, until notice in writing be given to him, or left at his usual place of abode, by the attorney for the party commencing such action, or suing out or serving the copy of the said writ; which notice shall contain the name and place of abode of the person who is to bring such action, with the cause of action; and the name and place of abode of the said attorney, shall be under wrote or indorsed thereon. And any peace officer may at any time within fourteen days after such notice, tend-

er amends for the injury complained of, to the attorney; and if the same is not accepted, the defendant may plead the tender in bar, together with the general issue, or any other plea, with leave of the court; and if upon issue joined upon such tender, the jury find the amends tendered to have been sufficient, the jury shall find a verdict for the defendant; and in such case, or if the plaintiff be non suited, &c. the defendant shall be intitled to his costs; and if the jury find no such tender was made, or that the amends tendered were not sufficient, and also find against the defendant on such plea, the jury shall give a verdict for the plaintiff, and such damages as they think proper, for which the plaintiff shall have judgment with costs.

Buildings.

Stat. 19 Car. 2. c. 3. sect. 3. No building shall be erected within the city and liberties, but such as shall be pursuant to such rules of building, and with such materials, as are herein after appointed, and according to such scantlings as are set down in a table in this act specified. And if any person shall build contrary, and be convicted by the oaths of two witnesses, before the lord-mayor, or any two justices of the peace for the city, the house so irregularly built shall be deemed a common nuisance, and the builder shall enter into a recognizance for demolishing the same, or otherwise to amend the same; and in default of entering into such recognizance, the offender shall be committed to gaol till he shall have demolished, or otherwise amend the same; or else such irregular house shall be demolished by order of the court of aldermen.

Sect. 4. The lord-mayor, aldermen, and common council, may appoint one or more surveyors, to see the said rules observed. And it shall be lawful for the mayor and aldermen to administer to the surveyors an oath, for the true execution of their office.

Sect. 5.

Sect. 5. There shall be only four sorts of buildings, *viz.* the first and least sort of houses fronting by-lanes; the second sort fronting streets, and lanes of note; the third sort fronting principal streets; the fourth and largest sort, of mansions houses for citizens or other persons of extraordinary quality, not fronting either of the former ways; and the roofs of each of the first three sorts of houses shall be uniform.

Sect. 6. The lord-mayor, aldermen, and common council, shall declare which shall be accounted by-lanes, streets or lanes of note, and principal streets.

Sect. 7. All the outside about the city shall be made of brick or stone, except door-cases and window-frames, the breast-summers, and other parts of the first story to the front between the piers, which are to be left to the discretion of the builder, to use substantial oaken timber instead of brick or stone, for convenience of shops; and the said doors, breast-summers, and window frames, shall be discharged by arch-work of brick or stone.

Sect. 8. The surveyors shall take care, that there be party walls and party piers set out equally; and that convenient toothing be left in the front wall by the first builder, for the better joining of the next house; and that no man be permitted to build on the party-wall, or on his own contiguous ground, until he hath reimbursed the first builder the moiety of the charges of the party-wall and piers, with interest from the beginning of the first building. And in case any difference arise between the first and latter builders, concerning the value of the said charge, the same shall be referred to the alderman of that ward and his deputy; and where they cannot compose such difference, the matter shall be referred to the lord mayor and court of aldermen.

Sect. 9.

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Stat. 28. The second day of September (unless the same be Sunday, and then the next day) shall be for ever observed as a day of publick fasting and humiliation within the said city.

[Here the scantlings of timber for the several sorts of houses before mentioned are inserted in the act.]

General Rules.

IN every foundation within the ground, add one brick in thickness to the thickness of the wall next above the foundation, to be set off in three courses equally on both sides.

That no timber be laid within twelve inches of the fore-side of the chimney-jambs, and that all joists on the back of any chimney be laid with a timber at six inches distance from the back.

That no timber be laid within the tunnel of any chimney, upon penalty, to the workman, ten shillings, and ten shillings every week it continues unreformed.

That no joists, or rafters, be laid at greater distances than twelve inches, and no quarters at greater distance than fourteen inches.

That no joists bear at longer length than ten feet, and no single rafters at more than nine feet.

That all roofs, window-frames, and cellar floors, be made of oak.

The tile-pits of oak.

No summers, or girders, to lie over the heads of doors and windows.

No summer, or girder, to lie less than ten inches into the wall; no joists than eight inches; and to be laid in loam.

Stat. 22 Car. 2. c. 11. sect. 8. All corner-piers of stone or brick shall be of the dimensions of the piers of stone mentioned in the act 19 Car. 2. 3.

Sec.

Sect. 9. It shall be left to the liberty of the builders of corner-houses, to use a post of oak-timber instead of the corner-pier of brick or stone, of such dimensions as the surveyors shall direct.

Sect. 10. The water from the tops of houses fronting upon the streets, shall be conveyed by pipes on the sides or fronts of the houses.

Sect. 21. Such rates shall be taken for wharfage and cramage of goods, as by his majesty, with the advice of his privy-council, shall be assessed; a table of which shall be hanged up at every wharf; and if any shall demand more, or shall refuse to suffer any goods to be landed or shipped, at any wharf within the said city, at the rates aforesaid, such offender shall forfeit ten pounds to the party grieved; to be recovered, with costs, in any of his majesty's courts of record at *Westminster*, or within the city of *London*.

Sect. 44. There shall be left a tract of ground, from *London-bridge* to the *Temple*; of the breadth of forty feet from the north side of the *Thames*, to be converted to a public wharf; and there shall be no building (except cranes, stairs, and docks) within the said forty feet of ground; and all buildings that shall border upon the said ground, shall front in the line that shall be set out for the bounds of the said forty feet; and the building shall be of the second or third rate mentioned in act 19 *Car. 2. c. 3. &c.* wherein uniformity shall be had, as in other streets, except common-halls and other buildings allowed of by his majesty.

Sect. 45. The said tract of ground shall be open without any division, and the bounds of each proprietor's ground shall be distinguished only by denten-stones in the pavement; and the line of the wharf, and the cranes, and stairs within the same, shall be ascertained by the direction of the lord-mayor and court of aldermen, and set out by

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by their surveyor, with his majesty's approbation, on or before the twenty-fourth of June, 1670; and no lighter, or other vessel, shall lie before the said wharfs on the north side of the river, longer than shall be necessary for the lading or unlading, without the consent of the wharfingers proprietors.

Sect. 47. The channel of *Bridewell dock*, from the *Thames* to *Holborn bridge*, shall be sunk to a level, to make it navigable; and the ground to be set out for the breadth of the channel, and of the wharfs on each side, shall not be less than one hundred feet; and no lighter or vessel shall lie before the wharfs longer than shall be necessary for the lading or unlading of goods, without the consent of the proprietors; and it shall be lawful for any person to land goods at the said wharfs within the channel for wharfage or cramage, whereof every proprietor shall receive such rates as shall be set by the lord-mayor and court of aldermen with approbation of the barons of the *Exchequer*, or two of them; and the same shall be vested in the lord-mayor, commonalty, and citizens of the city of *London*, for preservation of the navigation.

Sect. 61. No house, shed, or other building, shall stand upon the market-place at *Newgate-market*, other than the market-house, without the consent of the dean and chapter of *St. Paul's*.

Sect. 66. The sites of the churches to be demolished, and the church-yards shall be inclosed for the parishes united; except such as shall, within two years, be thought fit, by the mayor and aldermen, with the consent of the archbishop, and bishop of *London*, and by his majesty's approbation, to be laid into the streets and markets, or for publick store-places.

Sect. 68. Each of the parishes united, as to all rates and other respects, shall remain distinct; and the several patrons of the churches so united, shall present by turns to that church which is appointed

pointed to be the parish-church of the parishes so united; the first presentment to be made by the patron of such of the said churches, the endowments whereof are of the greatest yearly value.

Sect. 83. If any action be brought for any thing done by virtue of this or the act 19 Car. 2. c. 3. the defendant may plead the general issue (not guilty) and, if the plaintiff shall be nonsuit, &c. the defendant shall recover double costs.

By stat. 6 Ann, c. 30, if any builder shall erect a new house in *London* without a parting-wall of brick and stone, of the thickness of two bricks in the cellar and ground-stories, and thirteen inches thick upwards, eighteen inches above the roof; and if the front or rear-walls of such houses be not built of brick or stone two feet and a half above the garret and floor, and coped with stone and brick, &c. such builder shall forfeit fifty pounds.

By stat. 11 Geo. 1. c. 18. in rebuilding houses in *London*, new partition-walls shall be erected at the charge of the builders and owners of the houses adjoining; and no window, door, &c. shall be made in such party-walls, on pain of forfeiting fifty pounds; and, by this statute, party-pipes are to be set up, on the sides of houses, to convey the water falling from the houses into the channels, on pain of ten pounds.

Stat. 4 Geo. 3. c. 14. intituled, "An act for the better regulating of building, and to prevent mischiefs that may happen by fire within the weekly bills of mortality, and other places therein mentioned;" sect. 1: Whereas so much of the act, passed in the eleventh year of the reign of his late majesty king *George* the First, intituled, "An act for the better regulating of buildings, and to prevent mischiefs that may happen by fire within the weekly bills of mortality, and other places therein mentioned; as relates to pulling down or rebuilding of partitions or party-walls, between house and house, is confined to cases where

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where one of the houses is to be erected or built; and it may happen, that party-walls within the said city and liberty of *Westminster*, and the parishes, precincts, and places comprised within the weekly bills of mortality, and within the several parishes of *St. Mary-le-Bone* and *Paddington*, and within the parishes of *Clovelly* and *St. Pancras*; or either of them, in the county of *Middlesex* (except the city of *London* and the liberties thereof; and also, except houses on *London-bridge* and on the river of *Thames* below bridge) may be so far out of repair, as to render it necessary to pull down and rebuild the same, although neither of the adjoining houses, to which such party-walls belong require to be rebuilt; and it may happen; that party-walls within the limits aforesaid, may be so far defective and bad, by falling out of the perpendicular, as to become unsafe for the builder of the next adjoining house to rest timbers thereupon, or oblige such builder to saw and place his timbers quite thorough such defective party-walls, in order to preserve their full lengths, whereby fire may be more readily communicated from house to house, contrary to the intent of the said act: and whereas as the workmen appointed, by virtue of the said recited act, to examine party-walls, are often equally divided in opinion about the necessity of pulling down and rebuilding such party-walls, whereby a certificate from the major part of such workmen, as by the said recited act is required, cannot be obtained, and the purposes of the said act, in many instances, have been evaded; wherefore, be it enacted, &c. that so much of the recited act as relates to party-walls within the said city and liberty of *Westminster*, or any parish, precinct, or place, comprised within the weekly bills of mortality, or within the several parishes of *St. Mary-le-Bone* and *Paddington*, or within the

the parishes of *Chelsea* and *St. Pancras*, or either of them, in the county of *Middlesex* (except the city of *London*, and the liberties thereof; and also, except the party-walls of houses on the river *Thames* below bridge) shall; from and after the passing of this present act, extend, and be construed, deemed, and taken to extend, to all cases whatsoever within the said city and liberty of *Westminster*, and the several parishes, precincts, and limits aforesaid, where it is or shall be necessary to pull down and rebuild any party-wall, where either of the adjoining houses shall or shall not be, or require to be, rebuilt, or new built.

Sect. 2. And from and after the passing of this present act, in case the major part of the workmen appointed; in manner by the said act prescribed, to view the party-wall of any house or houses within the city of *Westminster*, and the several parishes, precincts, and limits aforesaid, intended to be pulled down, shall not, within the space of one kalendar month next after such appointment, sign a certificate in writing, as by the said act is required; then, and in every such case, it shall and may be lawful to and for any two or more justices of the peace for the city or county, residing within or near the parish, liberty, or precinct, where the house or houses, having such party wall or walls, intended to be pulled down, shall stand, and such two or more justices are hereby authorized and required, upon application to them, for that purpose, made, by the owner or occupier of either of the houses between which the party wall, so proposed to be pulled down, shall be, to name and appoint one other able workman, to be added to the workmen appointed by virtue or in pursuance of the said recited act; and the workmen so appointed by virtue and in pursuance of the said former act, and of this

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this present act, or the major part of them, who shall meet for that purpose (ten days notice having been given to, or left at the dwelling-house of each and every of them, of such intended meeting) shall view the party-wall so supposed to be pulled down; and in case the major part of such workmen, shall certify in writing, under their hands, that such party wall is defective and bad, and ought to be pulled down, then, and in such case, it shall and may be lawful to and for the owner or occupier of either of the said adjoining houses, to cause such party-wall to be rebuilt; and he or she shall have such remedy for recovering a moiety of the expences thereof, as in and by the said recited act is given or provided; subject nevertheless to such appeal to, and determination by, the justices of the peace, as by the same act is directed.

Sect. 3. And whereas it would tend greatly to prevent the fatal consequences of fire spreading and communicating to adjoining houses, within the said city, parishes, precincts, and other the limits aforesaid, if party-walls between house and house, within the same, were to be made of greater thickness than is prescribed by the act passed in the seventh year of her late majesty, queen *Anne*, intituled, "An act for making more effectual an act made in the sixth year of her said majesty's reign, for the better preventing of mischiefs that may happen by fire; and if no timbers, except the timbers of the girders, binding joists, and the templets under the same, were laid into the party-walls; and if no timbers of the roof be laid into such party-walls (except the purloins or kerb thereof) and if the ends of the girders or binding joists, lying within the said party-walls, did not exceed one foot; and if none of the ends of the girders or binding joists, in adjoining houses, met, or were laid opposite
to

to each other, and the sides thereof were laid at least fourteen inches distant from each other, and there should be nine inches, at least, of solid brick-work, left at or between the ends of all lentiles, wall plates, and bond timbers, which may or shall be laid in or upon the walls of the fore and back fronts, of all houses that shall adjoin to each other; be it therefore enacted by the authority aforesaid, that all party-walls which, from and after the expiration of three kalendar months, next after the passing of this act, shall be erected or built within the said city or liberty of *Westminster*, and the parishes, precincts, and limits aforesaid, shall be two bricks and a half thick, at the least, in the cellar, and two bricks thick upwards to the garret floor, and from thence one brick and a half thick, at least eighteen inches above the roofs or garrets which adjoin to such party-walls; and that the same shall be built of stone, or of good sound burnt bricks, and none other.

Sect. 4. And from and after the expiration of the said three kalendar months, no timbers, except the timbers of the girders, binding joists, and the templets under the same, shall be laid into the party-walls erected or built, or to be erected or built, within the said city or liberty of *Westminster*, and the parishes, precincts, and limits aforesaid; and that no timbers of the roof be laid into such party walls (except the purloins or kerb thereof) and that the ends of girders, or binding joists, lying within such party walls, shall not exceed nine inches; and that none of the ends of the girders or binding joists, in adjoining houses, shall meet, or be laid opposite to each other; and that the sides thereof shall be, at least, fourteen inches distant from each other; and that there shall be nine inches at least of solid brick work, left at or between the ends of all lentils, wall plates, and bond timbers, which
may

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may or shall be laid in or upon the walls of the fore and back fronts of all houses which shall adjoin to each other: and if any head builder, master bricklayer, or workman, shall erect and build, or cause to be erected or built, any party-wall, within the said city or liberty of *Westminster*, and the parishes, precincts, and limits aforesaid, contrary to the directions, true intent, and meaning of this act; or shall use in the building thereof, any bricks, other than good sound burnt bricks; or shall lay any timber in any party wall erected or built, or which shall be erected or built, within the said city or liberty of *Westminster*, and the parishes, precincts, and limits aforesaid, contrary to the directions, true intent, and meaning of this act; then such head builder, master bricklayer, or workman, shall, for every such offence, forfeit and pay the sum of fifty pounds, to be equally divided, one moiety thereof to the informer, and the other moiety to the poor of the parish where such building shall be; to be levied by warrant under the hands and seals of two or more of his majesty's justices of the peace, by distress and sale of the offenders goods, upon conviction upon oath of one or more credible witnesses, or upon his or their own confession, rendering the overplus (if any be) to the owner or owners; and, for want of such distress, the offender shall be imprisoned for the space of six months, unless the said penalty shall be sooner paid, by warrant under the hands and seals of the said two or more justices, who are hereby required and empowered to issue such warrant accordingly; or that it shall and may be lawful to and for all and every person and persons whomsoever, to sue for and recover all and every or any the aforesaid penalty and penalties, given or imposed by this act, by action of debt, bill, plaint or information, in any of his majesty's courts of record at *Westminster*,

Westminster, wherein no essoin, protection, privilege, or wager of law, or more than one imparlance, shall be allowed; and that every the person and persons, suing, or prosecuting for such penalty or penalties, shall, in all cases where he or they shall recover the same in manner herein last mentioned, be intitled to, and shall recover double costs of suit, over and above all and every such penalty and penalties, and one moiety of every such penalty and penalties, when recovered, shall be immediately paid, by the person or persons recovering the same, to the church wardens or overseers of the poor for the time being, of the parish, liberty, or precinct, in which such penalty or penalties shall arise, and for which such action shall be commenced, for the use of the poor of such parish, liberty, or precinct, and the other moiety thereof shall be for the use of the person or persons who shall inform, sue for, and recover the same.

Sect. 5. And from and after the first day of *July*, one thousand seven hundred and sixty four, no timber or timbers whatsoever, shall be laid or placed under the hearth or hearths of any room or rooms, or within nine inches of any funnel or flew of any chimney or chimnies, of any house or houses, within the limits aforesaid; and that no timber buildings whatever, shall be built adjoining to any house or houses, so as the timbers thereof shall be laid into the wall of any such house or houses already built, or hereafter to be built, within the limits aforesaid, under the penalty of fifty pounds; to be recovered, and levied, and applied, against the workman offending therein, or the inhabitant or person causing such building to be erected or built, in like manner as any other penalty or forfeiture is, in and by this act directed to be recovered, levied, and applied.

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Sect. 6. And after any party-wall or party-walls shall be erected or built pursuant to the directions of this act, no person or persons whatsoever, who shall build against such party-wall or party-walls, shall, on any pretence whatsoever, cut into or wound the same, for the conveniency of making a chimney or chimnies, or for any other purpose whatsoever; nor shall lay into the same any other timbers than are allowed by this act to be laid into new party walls, under the penalty of fifty pounds, to be recovered against the party or person offending, in the manner herein before directed.

Sect. 7. And every master builder who shall, after the first day of *July*, one thousand seven hundred and sixty-four, erect or build any house within the limits above mentioned, shall, within fourteen days after the same shall be covered in, cause the same to be surveyed by one or more surveyor or surveyors; and such surveyor or surveyors shall make oath, before one of his majesty's justices of the peace for the said county of *Middlesex* or city of *Westminster* (which oath such justice is hereby impowered and required to administer) that the same hath been (to the best of his or their judgment and belief) built and erected agreeable to the several directions in this act contained; which affidavit shall be filed with the clerk of the peace for the said county of *Middlesex*, within ten days after the making thereof; and the said clerk of the peace shall, for his trouble therein, be intitled to, and receive the sum of one shilling, and no more: and if any master builder shall make default in the premisses, by neglecting to cause such survey to be made, or such affidavit to be made and filed as aforesaid, such master builder shall, for every such neglect or default, forfeit the sum of fifty pounds; to be recovered and applied in the same

same manner, as any penalties or forfeitures are by this act directed to be recovered and applied.

Sect. 8. And the parishoners and inhabitants of the parish, liberty or precinct, where any offence against this act shall be committed (except persons receiving alms) shall be admitted and allowed to be competent witnesses, notwithstanding his, her, or their being a parishoner or parishoners, inhabitant, or inhabitants, in such parish, liberty, or precinct.

Sect. 9. And whereas some part or parts of houses already pulled down, or that shall hereafter be pulled down, in order to be rebuilt, may be so intermixed with adjoining houses, over or under each other, in such manner that a party-wall or party-walls, of brick or stone, cannot be effectually built upon the old foundations, perpendicular quite through all the stories, in order to prevent mischiefs by fire, without pulling down some part or parts of the one, and laying the same to the other : for preventing disputes thereupon, or determining any subsisting disputes, be it enacted by the authority aforesaid, that in all cases where any dispute or controversy hath arisen, or shall arise, between the owner or owners of any house or houses already pulled down, or shall be pulled down in order to be rebuilt, and the owner or owners of any house adjoining on either side to such house or houses, within the said city or liberty of *Westminster*, and the parishes, precincts, and limits aforesaid, concerning any part or parts thereof, intermixed over or under each other, in such manner that a party-wall or party walls of brick or stone, cannot be effectually built upon the old foundations, perpendicular quite through all the stories of the said house or houses, in order to prevent mischiefs by fire, without pulling down some part or parts of one or more of the said adjoining

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houses, and laying some part or parts of one or more of the said adjoining house or houses, or ground, to the other or others thereof, it shall and may be lawful to and for the justices of the peace, in the general or quarter sessions, to be holden for the said city and liberty of *Westminster*, or the county of *Middlesex*, and they are hereby authorized and required, upon application made to them by the person or persons desirous to pull down or rebuild any house or houses as aforesaid, to examine into such dispute or controversy, and ascertain the property, and fix the value, of what may be found necessary to be wanted for erecting perpendicular party-walls upon the old foundations as aforesaid; and, for that purpose, to issue their order to the sheriffs or bailiffs, or other proper officer of the city or county wherein any such dispute or controversy hath arisen or shall arise, to summon a jury to view the premises, try the facts, and fix the value of any damages that may arise, or their verdict, and, upon such verdict, the said justices shall and may, and are hereby authorized and empowered to make such order or orders in the said premises as they, in their discretions, shall think to be just and reasonable, and the determinations of the said justices shall be final and conclusive to all parties, without any appeal from the same.

Sect. 10. And, for the better preventing mischiefs that may happen by fire, and to deter and hinder ill-minded persons from wilfully setting their house or houses, or other buildings on fire, with a view of gaining to themselves the insurance money, whereby the lives and fortunes of many families are lost; be it further enacted by the authority aforesaid, that it shall and may be lawful to and for the respective governors or directors of the several insurance offices, within the cities of *London* and *Westminster*, for insuring
houses

houses and other buildings, against losses by fire, and they are hereby authorized and required, upon the application and request of any person or persons interested in or intitled unto, any house or houses, or other buildings, within the limits by this act prescribed, which hereafter shall or may be burnt down, demolished, or damaged by fire; or upon any grounds of suspicion that the owner or owners, occupier or occupiers, or other person or persons who shall have insured such house or houses, or other buildings, have been guilty of fraud, or of wilful setting their house or houses, or other buildings, on fire; to cause the insurance money to be laid out and expended, so far as the same will go, towards rebuilding, reinstating, or repairing such house or houses, or other buildings, so burnt down, demolished, or damaged, by fire; unless the party or parties claiming such insurance money, shall, within sixty days next after such claim shall be adjusted, give a sufficient security to the governors or directors of the insurance office where such house or houses, or other buildings, are insured, that the same insurance money shall be so laid out and expended as aforesaid; or unless the said insurance money shall be in that time settled and disposed of to and amongst all the contending parties, to the satisfaction and approbation of such governors or directors of such insurance-offices respectively.

Sect. 11. And no order which shall be made by any justice or justices of the peace, by virtue or under this act, or any other proceedings to be had touching the conviction or convictions of any offender or offenders against this act, shall be quashed or vacated for want of form only, or be removed or removable by certiorari, or any other writ or process whatsoever, into any of his majesty's courts of record at *Westminster*.

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Sect. 12. And if any action shall be brought, or suit commenced, against any person or persons, for any thing done in pursuance of this act, such action or suit shall be laid or brought, within six months next after the fact done, and not afterwards; and shall be laid or brought in the county or place where the fact was committed, and not elsewhere; and the defendant or defendants in such action may plead the general issue, and give this act and the special matter in evidence, at any trial to be had thereupon, and that the same was done in pursuance and by authority of this act: and if the same shall appear to have been so done, or if any action or suit shall not be brought in any other county or place than as aforesaid, then the jury shall find for the defendant or defendants; or if the plaintiff or plaintiffs shall become nonsuited, or suffer a discontinuance of his, her, or their action or actions; or if a verdict shall pass against the plaintiffs; or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs; the said defendant or defendants shall have treble costs, and shall have such remedy for recovering the same as any defendant or defendants hath or have, for costs in any other cases by law.

Sect. 13. Provided always, and be it enacted by the authority aforesaid, that in all cases where any party-wall within the said city or liberty of *Westminster*, and the parishes, precincts, and liberties aforesaid, shall, by virtue of the said recited act, of the eleventh year of his majesty king *George* the First, and of this present act, be pulled down and rebuilt, agreeable to the directions of this present act, by the owner or occupier of one of the adjoining houses, the expence of such party-wall shall be estimated and computed at and after the rate of six pounds and ten shillings *per* rod; any thing in the said former

former act to the contrary in any wise notwithstanding.

Sect. 14. Provided also, that in all cases where any party-wall shall be erected or built, agreeable to the directions of this present act, in execution of any contract entered into with the builder or workman, before the first day of *July*, one thousand seven hundred and sixty four, the expence of such party-wall shall be estimated and computed at and after the rate of six pounds and ten shillings *per rod*; any thing in such contract or contracts to the contrary thereof in any wise notwithstanding.

Sect. 15. And for the further and better preventing the spreading of fires, all houses, or other buildings which, from and after the expiration of three kalendar months next after the passing of this act, shall be erected or built within the said city or liberty of *Westminster*, and the parishes, precincts, and liberties aforesaid, shall be built of stone, or of good sound hard well burnt bricks, and none other, both in the fore-front and back front thereof, from the breast summer upwards (and likewise the party walls thereof) and that such breast summer, in all such houses or other buildings, shall not be higher than the floor of the one pair of stairs.

Sect. 16. And whereas, by an act made in the sixth year of the reign of her late majesty queen *Anne*, a reward of ten shillings is to be paid to the turn-cock belonging to any water-work where water shall be found on, or first come into, the main or pipe where the first plug shall be opened at any fire; thirty shillings to the first engine keeper, who brings in any parish engine to help to extinguish any fire; twenty shillings to the keeper of the second parish engine, that shall be brought to a fire; and to the third ten shillings; by the churchwardens of the parish where such fire shall happen; be it further enacted by the authority

aforesaid, that in all cases where any of the said rewards shall be claimed, by reason of any fire happening within the said city of *Westminster*, or within the parishes, precincts, liberties, or places aforesaid, such rewards shall be paid and payable in the same manner to the keeper of any other large engine (though not a parish engine) who shall bring in such engine in good order and complete, to help to extinguish such fire, in the same manner as if such engine was a parish engine.

Sect. 17. And this act shall be deemed, and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and all other persons whatsoever, without specially pleading the same.

Butchers.

By stat. 4 *Hen.* 7. c. 3. No butcher shall kill any flesh within his scalding house, or within the walls of *London*; on pain to forfeit for every ox so killed, twelve pence, and for every other beast, eight pence, to be divided between the king and the prosecutor.

By stat. 22 and 23 *Car.* 2. c. 19. If any butcher in *London* or *Westminster*, or within ten miles thereof, buy fat cattle and sell them again alive or dead, to another butcher, the seller shall forfeit the value of such cattle.

Butter and
Cheese.

Though by the statute 3 and 4 *Ed.* 6. c. 21. None, except innholders or victuallers in their houses, shall buy any butter or cheese to sell again, save only by retail, in open shop, fair, or market; and so not above a wey of cheese, or barrel of butter, at one time, without fraud, on pain to forfeit the double value, to be divided between the king and the prosecutor; yet by stat. 21 *Jac.* 1. c. 22. the aforesaid statute, as also so much of statute 5 and 6 *Ed.* 6. c. 14. which concerns the buying and retailing of butter and cheese, shall not extend to the retailers of cheese in *London*, *Westminster*, or *Southwark*,
having

having served seven years in that trade, nor uttering above four way of cheese, or four barrels of butter at one time, without fraud.

And by stat. 4 and 5 *Will. and Ma. c. 7.* There is a charge and penalty upon warehouse-keepers, weighers, and searchers, or shippers of butter and cheese, neglecting their duties concerning the butter and cheese that shall be brought to them, for any cheesemonger free of the city of *London, &c.* And there is also a penalty upon masters of vessels, refusing to take on board any such butter and cheese: yet this act shall not exclude cheesemongers free of the city of *London*, from sending their own vessels, or such as they shall hire for their own goods.

See *Coaches.*

See *Coaches.*

Carts,
Chairs.
Churches;

For building *St. Paul's*, see stat. 22. c. 11. sect. 61. 1 *Jac. 2. c. 15.* 8 *W. 3. c. 14.* Additional duties for carrying it on, 1 *Ann. stat. 2. c. 12.* declared to be finished. 9 *Ann. c. 22. sect. 9.*

For building the church of *St. Ann, Westminster*, 1 *Jac. 2. c. 20.*

Of *St. James, Westminster*, 1 *Jac. 2. c. 22.* Enlarging the church yard, 20 *Geo. 2. c. 29.*

For repairing *Westminster Abbey*, 8 and 9 *W. 3. c. 14.* 9 *Ann. c. 22. sect. 2.* 10 *Ann. c. 11. sect. 32.* 6 *Geo. 2. c. 25. sect. 20.*

For building fifty churches about *London*, 9 *Ann. c. 22.* 10 *Ann. c. 11.* 1 *Geo. 1. c. 23.*

For building *St. Mary le Strand*, 12 *Ann. stat. 1. c. 17.* 12 *Geo. 1. c. 39.*

For rebuilding *St. Giles in the fields*, 3 *Geo. 2. c. 19.*

For rebuilding *St. George's in Southwark*, 6 *Geo. 2. c. 8.*

For rebuilding *Shoreditch church*, 8 *Geo. 2. c. 27.* 11 *Geo. 2. c. 23.*

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For rebuilding *St. Catherine Coleman*, in *Fenchurch-street*, *London*, 12 *Geo.* 2. c. 17. 15. *Geo.* 2. c. 12.

For rebuilding *St. Botolph without Aldgate*, 14 *Geo.* 2. c. 27.

For rebuilding *Aldersgate church*, 26 *Geo.* 2. c. 94.

For rebuilding *St. John Wapping*, 29 *Geo.* 2. c. 89.

Coaches,
Chairs, and
Carts.

Stat. 9 *Ann.* c. 23. sect. 1. The crown may nominate under the great seal, commissioners for regulating and licensing hackney-coaches, not exceeding five, who shall regulate and license within the bills of mortality for thirty-two years.

Made perpetual, 3 *Geo.* 1. c. 7. sect. 1.

Sect. 2. The commissioners may, under their hands and seals, or of the major part of them, license not exceeding eight hundred hackney-coaches, and upon every licence there shall be reserved the weekly sum of five shillings, to be monthly paid.

Sect. 3. The commissioners for thirty-two years may licence two hundred hackney-chairs within the bills of mortality, reserving to the crown the yearly sum of one shilling, to be paid quarterly.

Made perpetual, 3 *Geo.* 1. c. 7. sect. 1. and part of the general fund.

Sect. 4. No person shall drive or let to hire any hackney-coach or coach-horses, within the weekly bills, &c. without a licence from the commissioners, upon forfeiture of five pounds; nor carry any hackney chair for hire without such licence, upon forfeiture of forty shillings; and no horse shall be used in any hackney-coach under the size of fourteen hands; and every licensed coach and chair shall have a mark or figure on each side; and if one person shall be licensed to keep several hackney-coaches or chairs,

chairs, he shall have distinct figures; and no person shall put the same figure on his coach or chair which is appointed for another, or shall deface the figure, upon forfeiture of five pounds, one moiety to the informer, and the other to the crown.

Sect. 5. Commissioners licensing more than eight hundred coaches or two hundred chairs, shall forfeit one hundred pounds, to be recovered in the courts at *Westminster*, by any who will sue.

Sect. 6. No hackney-coachman shall take for his hire in and about *London* and *Westminster*, or within ten miles thereof, above ten shillings per day; reckoning twelve hours to the day; and not above one shilling and six pence for the first hour, and twelve pence for every hour after. And no person shall pay from any of the inns of courts, or thereabouts, to any part of *St. James's* or *Westminster* (except beyond *Tuttle street*) above twelve pence; and from any of the inns of courts, or thereabouts, to the *Royal Exchange*, twelve pence, and if to the *Tower*, *Bishopsgate*, or *Aldgate*, or thereabouts, one shilling and six pence, and the like rates from and to any places of the like distance.

Sect. 7. No person shall be obliged to pay for a hackney-coach above twelve pence, for any distance not exceeding one mile and four furlongs; and if above that distance, and not exceeding two miles, one shilling and six pence. And the commissioners shall cause the distances to be measured between the most noted places within the weekly bills.

Sect. 8. Hackney-chairmen shall have no more than the rate of a hackney-coach driven two third parts of the same distance; and any hackney-coachman or chairman exacting more, or refusing to go at that rate, forfeits forty shillings.

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Sect. 9. The commissioners shall appoint under-officers, and they are not to take for their licences any gratuity or any fee, other than what is to be paid to the crown, upon pain to forfeit their offices, and to be incapable of any grant thereof, or of any other office, only the clerks may take two shillings and six pence, for ingrossing each licence.

Sect. 10. The commissioners and other officers shall take an oath for the due execution of their offices.

Sect. 11. The commissioners shall pay the money into the Exchequer, and upon oath, deliver to the treasury books of accounts, containing all the licences granted, and the names and surnames of the persons to whom granted, &c. once in every year.

Sect. 12. The weekly and other rents and sums of money, and all forfeitures and penalties by this act, or by any by laws made by commissioners (the penalties incurred by the commissioners to be excepted) shall be levied by warrant of three commissioners, by distress of the goods of the offender, which shall be sold within ten days after the distress, &c. and if no distress can be had, the offender shall be committed by like warrant till the penalty is paid; and if the rent be behind fourteen days, the commissioners (without demanding the arrear) may revoke the same.

Sect. 13. Offences against the act may be heard and determined by three commissioners in a summary way, upon the oath of one witness, or upon confession (the party being summoned) one moiety to the crown, the other to the informer.

Sect. 14. Persons sued for any thing done in pursuance of this act, may plead the general issue; and if judgment be against the plaintiff, the defendant shall have double costs.

Sect. 15.

Se^ct. 15. No certiorari shall supersede execution or other proceeding, upon any order of the commissioners.

Se^ct. 16. The commissioners may make by-laws to bind the persons who have licences, and annex penalties for the better putting in execution this act, and for the good government of the persons licensed.

Se^ct. 17. The by-laws shall be approved by the lord chancellor and the two chief justices and chief baron, or any three of them, and then printed; and the breach of such by-laws, shall be punishable by any justice of peace, mayor or head officer, where the offence shall be committed.

Se^ct. 18. That part of the penalties which belongs to the queen, shall be transmitted to the receiver-general of the revenues of the hackney-coaches, and certified to the commissioners within ten days after levied, upon forfeiture of double the sum; two thirds to the crown, the other to the informer.

Se^ct. 19. Upon complaint to the commissioners, that a coachman or chairman hath offended, he shall be summoned; and if he refuse to appear, or is found guilty of a misbehaviour, they may revoke his licence, for giving abusive language, or otherwise.

Se^ct. 20. Coachmen and chairmen licensed may ply on the Lord's day, notwithstanding the act, 29 Car. 2. c. 7.

Se^ct. 21. An account of the profits arising by licensing coaches and chairs, shall be made annually before the auditors of the imposts.

Se^ct. 22. If any refuse to pay a coachman or chairman his just hire, or shall cut or break any coach or chair wilfully, any justice of peace may grant a warrant against the offender, and upon proof on oath, award satisfaction; and upon refusal to make satisfaction, may bind him over to the

the next sessions, which shall finally determine, and for non payment, levy by distress.

Sect. 49. If any person driving a coach, or carrying a chair for hire, under the licence of another person, as his servant, shall be guilty of any misbehaviour, by demanding more than his fare, or giving abusive language, or other rude behaviour, and being convicted by oath of one witness before the commissioners, or one justice for *London, Westminster, Middlesex, or Surry*, he shall forfeit not exceeding twenty shillings, to the poor of the parish; or if not able to pay, shall be sent to *Bridewell*, or some house of correction, to be kept to hard labour for seven days, and have the publick correction of the house.

Stat. 10 *Ann.* c. 19. sect. 158. The commissioners for hackney-coaches may license (over and above the number of chairs by the former act) any additional number not exceeding one hundred hackney chairs, during thirty-one years, so that the number of all the chairs shall not exceed three hundred at one time.

Made perpetual, 3 *Geo.* I. c. 7. sect. 1. part of the general fund.

Sect. 159. Hackney-chairs thus licensed shall pay the yearly rent of ten shillings quarterly, and be subject to the same rules as other hackney chairmen, by the former act.

Stat. 12 *Ann.* stat. 1. c. 14. sect. 1. The commissioners for licensing coaches and chairs, shall in the first place, license the widows of hackney-chairmen who died possessed of any licences, unless such widows shall neglect to take licences, &c. within a reasonable time, to be limited by the commissioners, but not less than twenty days.

Sect. 2. Such widows, and their chairs and servants, shall be liable to such rules, penalties and orders, as any other licensed chairmen are by the acts 9 *Ann.* c. 23. and 10 *Ann.* c. 19.

Stat.

Stat. 1 Geo. 1. c. 57. sect. 1. The commissioners authorised to put the act 9 Ann. c. 23. in execution, may make such to bind persons licensed to keep hackney-coaches, the renters of such licences, and drivers of such coaches, and annex such penalties as they shall think fit; so as such by-laws be agreeable to the intent of this and former acts, and for the good government of the persons licensed, the renters and drivers, the said by-laws to be approved and put in execution, as by the act 9 Ann. c. 23.

Sect. 2. If any hackney-coachman or driver, shall refuse to go at, or shall exact more for, his hire, than shall be appointed, he shall forfeit a sum at the discretion of the commissioners, not exceeding three pounds, nor under ten shillings, the said offences, to be determined, and the penalties as by the said act is directed concerning the forty shillings penalty.

Sect. 3. No person shall ply or drive for hire with any coach-horse or coach-horses, to attend on any funeral in *London, Westminster, or* the bills of mortality, except persons licensed by the commissioners, on pain to forfeit five pounds, as by the said act of 9 Ann. c. 23.

Sect. 4. If any person shall drive a mourning coach, or hearse, to any funeral, except the same have a number fixed on the fore standard, or in some other place appointed by the commissioners, or except the same be the coach of some gentleman attending the master, or any of the family, the commissioners upon information may summon the driver, against whom, not appearing, they are impowered to proceed, and though no express hiring shall be proved, yet unless the party appear and prove a previous order from the owner of such coach, &c. to attend at such funeral, it shall be adjudged for hire, and the party shall forfeit five pounds, to be recovered of

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the driver or the undertaker of such funeral, to be levied and applied as aforesaid.

Sect. 5. If any person be sued for any thing done in pursuance of this act, he may plead the general issue; and if the plaintiff be non-suit, &c. the defendant shall have double costs.

Sect. 6. No certiorari shall supersede execution or other proceeding, upon any order of the commissioners, in pursuance of this act.

Sect. 7. The alderman of every ward of the city, and every justice of peace in the said cities and counties, may inflict the like penalties for any offences contrary to this act, as the commissioners may, provided that no person be punished twice for the same offence.

Sect. 8. If any person driving any cart, dray, or waggon, in the streets of *London* and *Westminster*, *Southwark*, and other streets and lanes within the bills of mortality, shall ride upon such cart, &c. not having some other person on foot to guide the same, every such offender being convicted before the alderman of the ward, or a justice of peace, by oath of one credible witness, shall forfeit ten shillings, to be levied by distress and sale, by warrant of such alderman or justice; one moiety to the informer, the other to the poor of the parish; and in default of payment, the offender to be sent to the house of correction, to be kept to hard labour for three days.

Sect. 9. Nothing in this act shall deprive the mayor, &c. of *London*, and governors of *Christ's Hospital*, of the power they have to punish the said offences, such offender not having been punished before for the offence.

Stat. 12 Geo. I. c. 12. sect. 15. The commissioners for hackney-coaches, are (over and above the number of chairs authorised by the acts 9 Ann. c. 23. and 10 Ann. c. 19.) to license an additional number of hackney-chairs not exceeding

ceeding one hundred, which after the twenty-fourth of *June*, 1726, during eighteen years, shall be used for hire within *London* and *Westminster*, and the bills of mortality; so that the number of all the chairs to be licenced shall not exceed four hundred.

Sect. 16. On every of the licences to be granted in pursuance of this act for keeping any hackney-chair, there shall be reserved to his majesty the annual sum of ten shillings, to be paid quarterly at the four usual feasts; and the chairs shall have the same rates, and be subject to the same rules, as are by the former acts prescribed.

Sect. 17. All monies to arise by rents of the additional number of chairs shall be added to the funds settled by the act of 9 *Ann.* c. 23. The general fund.

Stat. 18 *Geo.* 2. c. 33. sect. 4. No person shall drive any cart within the bills of mortality, unless the owner place upon some conspicuous part the name of the owner, and the number of such cart, in order that the driver may be the more easily convicted for any disorder.

Sect. 5. Every owner of such cart residing within the limits aforesaid, shall enter his name and place of abode, with the commissioners for licensing hackney-coaches, for which entry he shall pay one shilling, and no more.

Sect. 6. If any person drive any cart within the limits aforesaid, not numbered and entered as before directed, he shall forfeit forty shillings, and it shall be lawful for any person to seize and detain the cart, or any of the horses, till such penalty be paid.

Sect. 7. It shall be lawful for any person using any cart as aforesaid, having the wheels of the breadth of six inches when worn, to have the same bound with streaks of iron, provided such streaks be of the breadth of six inches, and made flat, and not set on with rose-headed nails.

Stat.

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Stat. 30 Geo. 2. c. 22. sect. 3. The justices of peace of the city of *London*, shall at the general sessions of the peace holden for the city of *London* next after the twenty-fourth of *June* in every year, assess prices for the carriage of goods taken up in the city of *London* as from the city of *London* into the city of *Westminster*, or any other place not exceeding the distance of three miles from the city of *London*; and make rules for governing such carts, &c. and the drivers, and compel payment for carriage of goods by such licensed carts, &c. according to the prices assessed, and annex penalties for breach of any such rules, not exceeding five pounds, for any one offence, as to the major part of the justices at such sessions shall seem meet; and at any other such sessions of the peace in *London*, alter such rules and make new rules.

Sect. 4. All rules so made, shall within thirty days after, be printed and affixed in some public places of the city of *London*, and be made public in such manner as the said justices in sessions shall order.

Sect. 5. No persons shall wilfully obstruct the passing and repassing in any public streets, lanes, or passages, within the limits before mentioned, or set any empty carts or other vessels in any such streets, &c. (except for such time only as is necessary for the removing thereof to or from any place, or for the trimming thereof) or set any empty cart, or other carriage in any such street, &c. except only during such time as any such cart, &c. is plying for hire in the places appointed by the persons authorised to appoint the standings thereof, and except during such time as any such cart, &c. is waiting in any such street, &c. to load and unload goods or commodities, or to take up or set down a fare; and every person offending and convicted by confession, or by oath of one witness, before any justice of peace of the county, &c. where such offence

offence is committed; shall for every offence forfeit any sum not exceeding twenty shillings, and not less than five shillings, or be committed to the house of correction or some other prison of the county, &c. in which the offence is committed, or the offender apprehended, to be kept to hard labour for any time not exceeding one kalendar month, as such justice shall order.

Sect. 6. No person shall ply for hire with any hackney coach, cart, or other wheel carriage, in *Bridge street, Parliament-street, George street, St. Margaret street, or Abingdon-street*, in the city of *Westminster*, or stay in any of the said streets, with any wheel carriage, longer than is reasonable to wait to take or set down his fare, or to load and unload goods; and every person having the care of such wheel-carriage offending, and being convicted either by confession or by oath of one witness before any justice of peace for *Westminster*, shall, for every offence, forfeit any sum not exceeding twenty shillings, and not less than five shillings, or be committed to the house of correction in *Westminster*, to be kept to hard labour for any time not exceeding one kalendar month, as such justice shall order.

Sect. 7. If the driver of any carriage in the cities of *London* or *Westminster*, or in any public street or common highway within the weekly bills of mortality, by negligence or wilful misbehaviour interrupt the free passage in any of the public streets in *London* or *Westminster*, or in any public streets or common highways within the said weekly bills of mortality, every such driver being convicted either by confession or by oath of one witness before any justice of the county, &c. wherein the offence is committed, shall for every offence forfeit any sum not exceeding twenty shillings, or be committed to the house of correction or some other prison of the county, &c. in which such offence is committed, or the offender apprehended, to be kept to hard labour
for

for any time not exceeding one kalendar month, as such justice shall order.

Coals.

Stat. 16 and 17 *Car.* 2. c. 2. sect. 1. All sea-coals brought into the *Thames* and sold, shall be sold by the chalders, containing thirty-six bushels, heaped according to the bushel sealed for that purpose at *Guildhall*; and all other coals commonly sold by weight shall be sold after the proportion of an hundred and twelve pounds to the hundred, *avoirdupois*; upon pain of forfeiture of all coals otherwise sold or exposed to sale by any woodmonger or retailer, and double the value thereof; to be recovered by any person in any court of record, or by complaint unto the lord-mayor and justices of peace of *London*, or any two of them, or to the justices of peace of the places where such coals shall be exposed to sale; who are upon due proof to convict the offenders, and to give warrant for levying the forfeitures; the one half for the use of the person prosecuting, and the other half for the poor, or repairing of the highways within the same or adjoining parish; and the lord-mayor and court of aldermen, and the justices of peace of the several counties, or three of them, one of the *quorum*, are to set the prices of coals sold by retail from time to time. Sect. 17 *Geo.* 2. c. 25. par. 85.

Sect. 2. If any retailer of coals shall refuse to sell as aforesaid, the lord-mayor and aldermen and justices of peace respectively, are to appoint persons to enter into any place where such coals are stored; and in case of refusal, taking a constable, to force entrance; and the said coals to sell at such rates, rendering to such retailer the money, charges deducted.

Sect. 4. No person sued by virtue of this act, shall be sued upon any other law for the same offence; and if any action shall be commenced for any thing done by colour of this act, the defendant may plead the general issue; and if the verdict

verdict be found for him, &c. shall have his damages and double costs.

Sect. 5. No person having interest in any wharf used for the receiving or uttering of coals, or that shall trade in the sale of coals, shall act in the setting the price of coals.

Made perpetual, 7 and 8 Will. 3. cap. 36. sect. 2.

For repairing, making and mending, the conduits in London, stat. 35 Hen. 8. c. 10.

Stat. 29 Geo. 2. c. 25. sect. 1. The dean of the collegiate church of *St. Peter Westminster*, or the high steward of the city and liberty of *Westminster*, or his deputy, (calling to his assistance the burgesses of the said city and liberty of *Westminster*, if the dean, or high steward or his deputy, think fit) shall at a court leet to be holden for the said city and liberty, on *Tuesday* next following the feast of *St. Michael the Archangel*, in every year, appoint eighty persons residing within the said city and liberty, being artificers, or persons using any trade of buying and selling, (alehouse-keepers, victuallers, or persons retailing spirituous liquors, only excepted) to be constables for the city and liberty of *Westminster*, being presented thereto in manner after mentioned.

Sect. 2. The constables appointed as aforesaid, shall be chosen out of the several parishes in *Westminster* as followeth; viz. There shall be yearly chosen out of the parish of *St. Margaret*, fourteen; out of *St. John the Evangelist*, four; out of *St. Martin in the fields*, fourteen; out of *St. George, Hanover-square*, twelve; out of *St. James*, fourteen; out of *St. Ann*, eight; out of *St. Paul, Covent-garden*, six; out of *St. Clement Danes*, six; and out of *St. Mary le Strand*, two; and the constables so appointed shall take the usual oaths of office, and do all things appertaining to the office of a constable for one year,

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to commence from their appointment, or until other persons be appointed in their stead; or shall find fit persons to be approved of by the said court leet, to serve and take the oath of the office of constable as their deputies; such other persons not being ale-house-keepers, victuallers, or persons retailing spirituous liquors.

Sect. 3. The dean of *Westminster*, or the said high steward or his deputy (calling to his assistance the burgesses of the said city and liberty of *Westminster*, if they think fit) shall issue out a precept within six weeks before the feast of *St. Michael*, in every year, directed to the high bailiff of *Westminster*, to impanel and return forty householders and traders residing within the said several parishes in *Westminster*, in the proportions before mentioned, and to summon such persons to appear at such time and place as in such precept directed: and out of the persons so returned, the said dean, or high steward, or his deputy (calling to his assistance the burgesses of the said city and liberty of *Westminster*, if they think fit) shall at a court to be held by him for that purpose, nominate so many as he thinks fit, not exceeding thirty, taking care that one or more be nominated out of each of the said parishes; and the persons so nominated shall be called *the Leet Jury*, and be sworn to present to the said court, fit persons to be chosen constables for the service of the city and liberty of *Westminster*, for the year ensuing; the said jury shall present to serve as constables for the parish of *St. Margaret*, twenty-eight; *St. John Evangelist*, eight; *St. Martin in the fields*, twenty-eight; *St. George Hanover Square*, twenty-four; *St. James*, twenty-eight; *St. Ann*, sixteen; *St. Paul, Covent-garden*, twelve; *St. Clement Danes*, twelve; and *St. Mary le Strand*, four; out of which number so presented, the said court shall, at the time and in manner before directed; appoint eighty to be constables;

constables; and the persons so nominated to be the *leet jury*, shall continue in the said office for one year, or till others are appointed and sworn.

Sect. 4. In case any person summoned by the said high-bailiff, by any precept as aforesaid, to take upon him the said office of jurymen, neglect to appear, or refuse to take upon him the said office, being thereunto appointed, or at any time refuse to appear to present proper persons to be constables, being summoned for that purpose, every such person shall forfeit forty shillings, to be set by way of fine, by the said court.

Sect. 5. All persons presented by the jury as fit persons for the office of constable, shall by precept from the said court, be summoned by the petty constables to whom such precepts shall be directed, to appear at the said court leet, to take upon them the said office; and in case any person so summoned neglect to appear (proof being made of the service of such summons on oath) or refuse to take upon him the office of constable, being thereunto appointed, or to find a fit person then to take upon him the said office in his stead, every such person shall forfeit eight pounds to be set by way of fine, by the said court.

Sect. 6. The said dean, or high steward, or his deputy, shall adjourn the said court leet from time to time, as he thinks fit. And in case any constable die, remove out of the parish for which he was appointed, or be discharged from his office, he shall at such adjourned courts, summon others, being first presented by the jury; which said jury, the said dean or high steward, or his deputy, shall summon for that purpose, and appoint one or more of such fit persons to serve as constables in the stead of such persons as die, be removed, or discharged; and all persons so summoned or appointed are to appear and take upon them, or find other fit persons to take upon them the

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the said office ; on pain of the like penalties as are before inflicted upon persons refusing to appear, or to take upon them the execution of the office of constable, at the annual leet.

Sect. 7. No person who hath served or shall serve by himself or deputy, the office of constable, shall be presented again to the said office, or be appointed to serve the same in less than seven years after the end of such former service ; and no person nominated and sworn on the leet jury, and who hath served the said office of jurymen, shall be again appointed to serve the said office in less than seven years after the end of such former service.

Sect. 8. The said dean, or high steward, or his deputy, shall, at the said court leet to be holden on *Tuesday* next after the feast of *St. Michael*, yearly, appoint an able person being an artificer, or using some trade of buying and selling, and not being an alehouse-keeper, victualler, or retailer of spirituous liquors, to be high constable of the said city and liberty of *Westminster*, being duly summoned for that purpose ; who shall take the usual oath of office, and do all things appertaining to the office of high constable for one year, to commence from his appointment, or until another person be appointed in his stead ; and in case of death or removal of such high constable, the said dean, or high steward, or his deputy, shall at some adjournment of the said court leet, appoint another person to serve in his room.

Sect. 9. No person shall serve the said office of high constable for more than three years together ; and every person so summoned and appointed, is to appear and take upon him the execution of the said office of high constable, on pain of forfeiting twenty pounds, to be set by way of fine.

Sect. 10. The said dean or high steward, or his deputy, the two chief burgesses of *Westminster*

ser, and the other burgesses, or five of them, whereof the said dean, high steward, or his deputy, or one of the said two chief burgesses, to be one, shall twice in every year issue out their precepts under the common seal of their court, directed to the high bailiff of *Westminster*, to impanel and return eighty substantial householders and traders residing in the said several parishes in *Westminster*, in the proportions before mentioned, and to summon such persons to appear before them, at such time and place as in such precepts set forth; and out of the persons so returned, the said dean, high steward, or his deputy, the said two chief burgesses, and the other burgesses, or five of them, whereof the said dean, high steward, or his deputy, or one of the two chief burgesses, to be one, shall, at a court to be held for that purpose, nominate so many as they think proper, not exceeding forty-eight, taking care that one or more be nominated out of each of the said parishes; and the several persons so nominated shall be called *the annoyance jury*, and shall take an oath to the effect following.

I A. B. do swear that I will diligently enquire and make true presentment to this court of all such publick annoyances, and other offences that shall be committed in Westminster, during the time of my continuance in the office whereunto I am now appointed; and that I will present no person or thing through hatred or malice, nor leave unrepresented through love, favour, or affection.

So help me God.

Sect. 11. In case any person summoned to take upon him the said office of juryman neglect to appear, or refuse to take upon him the said office, being thereunto appointed, every person

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so offending shall forfeit forty shillings, to be set by the said court, by way of fine.

Sect. 12. The *jury of annoyance* to be appointed as aforesaid, shall subdivide themselves into smaller bodies, not being less than twelve in each body, and shall, as often as they be directed by the said court, enquire into and present to the said court, according to their oath, upon their own view and knowledge, all bad pavements and all annoyances, obstructions, and encroachments, upon any of the publick ways or passages, within the said city or liberties, and shall give or leave notice in writing, of their intention to present the same, at the house to which such defective pavements belong, or to the persons who cause or suffer such annoyances, &c. and if such pavements are not amended, or such annoyances, &c. removed within fourteen days after such notice, then the said jury shall amerce the person inhabiting the said house, or causing or suffering such annoyance, &c. in such sums as they think proper, not exceeding forty shillings, for any one offence; and if any person abuse or insult any of the said *jury of annoyance*, when they are in the execution of their office, or any way obstruct them in executing the said office, it shall be lawful for any justice of peace for *Westminster*, upon the fact being proved upon the oath of two witnesses, to fine such person so offending, in any sum not exceeding forty shillings.

Sect. 13. Where the said *jury of annoyance*, shall, upon their view, find any bad pavement, belonging to any empty house within the said city or liberty, or any annoyance before such house, they shall present such bad pavement, or such nuisance, to the said court of burgesses, first leaving notice in writing on the door or other publick part of such empty house, of their intention

tention to present the same; and in case the owner within fourteen days after such notice, cause not such pavement to be amended, or such annoyance removed, then the said court shall forthwith cause such pavement to be repaired, or such nuisance to be removed; and the said jury shall amerce the owner of such house in such sum as by the order of the said court is expended in making good such defective pavement, or removing such nuisance; which amercement shall be levied on the next tenant or occupier of the ground floor of such house; and it shall be lawful for such tenant who pays any sum so amerced (if he pays the same voluntarily) to deduct out of his rent such sum,

Sect. 14. The said *annoyance jury* shall, at all reasonable times in the day-time, enter into any shop, house, or warehouse, within the said city and liberty, belonging to any persons that deal by weight and measure; and if the said jury find any weight, balance, or measure, to be unlawful or defective, they shall destroy the same, and amerce the person so offending in such sum as they think proper, not exceeding forty shillings for any one offence.

Sect. 15. No person nominated on the *annoyance jury*, and who hath served or shall serve the said office of juryman, shall be again summoned to serve the said office, in less than three years after the end of such former service.

Sect. 16. In case the said high bailiff or his deputy, or other officer acting under him, or under the order of the said court, ask or take any money or other gratuity, for excusing any person from appearing to serve, or for not summoning any person to serve the said office of constable, or to serve on either of the juries aforesaid, or on any other jury within the said city and liberty of *Westminster*; or if any person give any money, or other reward to any such officer

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for excusing him from serving or being summoned to serve the office of constable, or to serve on such juries; it shall be lawful for any justice of peace for *Westminster*, upon the fact being proved upon the oath of two witnesses, to fine such person so offending in any sum not exceeding forty shillings.

Sect. 17. Upon the non-payment of any fine or amerciamment, imposed by this act, the high bailiff of *Westminster*, or his deputy or deputies, shall, by warrant from the said court leet, or by warrant under the common seal of the said court of burgesses, or by warrant from the justices of peace before whom any such person is convicted, levy such fines and amerciamments by distress of the goods of the person fined, being then resident within the said city and liberty of *Westminster*, and cause sale to be made thereof in case they be not redeemed within five days, rendering the overplus to the owner, after deducting the charges of distress and sale; and if such offender have not goods within the said city and liberty, whereof such fine can be levied, upon non-payment, it shall be lawful for any justice of peace by warrant, to commit such offender to one of his majesty's gaols within the city or liberty of *Westminster*, for ten days, unless he sooner pay the said fine or amerciamment.

Sect. 18. All fines imposed by virtue of this act shall be paid by the high bailiff of *Westminster*, or other person into whose hands the same come, within fourteen days next after the receipt thereof, to the overseers of the poor of the several parishes in *Westminster*, respectively, out of which the same is recovered, who shall give a receipt for the same; and the said overseers are to apply the said fines to the same uses that the poor rates in the said parishes are applied; and shall account upon oath for the same, at the time and in manner, they account for all other sums that

come into their hands; and all amerciaments imposed by the said *annoyance jury*, and recovered by virtue of this act, shall be applied in manner following, *viz.* the said high bailiff shall be intitled to one moiety, and the other moiety shall be applied by the said court of burgessees, to pay the expences of the execution of this act.

Sect. 19. If any suit be brought for any thing done in pursuance of this act, the action shall be commenced within six months next after the fact committed; and shall be brought in *Middlesex*, except the person against whom such action is brought reside in *London*; in such case the said action shall be brought in *London*; and the defendant may plead the general issue; and if the plaintiff be non-suited, &c. the defendant shall recover treble costs.

Sect. 20. This act shall not extend to the church or college of *Westminster*, nor to the close of *Westminster*, nor to any person inhabiting within the precinct of the said church, college, or close, for any offence committed by them within the said precinct.

Stat. 23 Hen. 8. c. 4. Gives power to the Coopers, wardens of the mystery of *Coopers* within the city of *London*, to search for, and gauge all vessels made for ale, beer, and soap, to be put to sale within *London* and the suburbs, and within two miles compass without the suburbs, (as well within the liberty as without) and to examine their contents and weight, and being found right, to mark them with *St. Anthony's cross*, &c.

See title *Gauging*.

See *Leather*.

Cordwainer.

Stat. 31 Geo. 2. c. 25. sect. 1. There shall be a free market held within the city or liberty of *Westminster*, for all sorts of corn and grain.

Sect. 2. Major-general *Edward Cornwallis*, and others named in the act, shall be trustees for putting this act in execution.

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Sect. 3. It shall be lawful for the trustees, or five of them, or any person authorised by them, to set out ground proper for holding the said market, within the said city or liberty; and to purchase such grounds, with any buildings thereupon, and to convert the said ground into a market.

Sect. 4. It shall be lawful for all persons, bodies politic, femes covert, trustees, and seofees in trust, guardians, and committees for lunatics, and idiots, executors, administrators, and guardians, not only in behalf of themselves, but also of their cestuique trusts, who are seised or interested in any lands or tenements, within the bounds set out by the trustees for the said market, to sell to the trustees or five of them, or to any person they appoint, such lands or hereditaments.

Sect. 5. All sums paid by the trustees for the purchase of such lands, &c. to any persons, bodies politic, femes covert, trustees, guardians, or committees for lunatics or idiots, executors, administrators or guardians, shall be laid out in the purchase of other lands, &c. or of such estate therein as the vender had in the premises; and the lands, &c. purchased with the said money, shall be settled, to the same uses, and stand charged with the same charges, as the lands from the sale of which the purchase money arises were liable to.

Sect. 6. If any persons, or bodies politic, refuse to convey, it shall be lawful for the trustees, or five of them, to issue warrants to the high bailiff of *Westminster*, to return a number of persons qualified to serve on juries, not less than forty-eight, nor more than seventy-two; and out of such persons a jury of twelve shall be drawn by the trustees, or some person by them appointed (as juries for the trying of issues in the courts at *Westminster*, by 3 Geo. 2. c. 25.) to assess

assess the damages to be awarded to the owners or occupiers of houses or ground necessary to be purchased; and the verdicts, judgments and proceedings concerning such tenements, shall be entered in the register's office for *Middlesex*, and be deemed records; and all persons may have recourse to the same gratis, and take copies, paying for the copies a sum not exceeding sixpence, for every two hundred words, and proportionably for any greater number of words.

Sect. 7. Upon payment of such sum adjudged for the purchase of the premises, the person intitled thereto shall execute conveyances to the trustees and their successors; and in case any person to whom such money is awarded, shall not evince a title, and make conveyances, such money being tendered; or in case any person intitled to the premises cannot be found in *Westminster*, or *Middlesex*; or it appear not to the trustees what person is intitled; it shall be lawful for the trustees to order such money to be paid into the bank of *England*, for the use of the parties interested: and the cashiers of the bank are to give receipts specifying for what premises, and for whose use the same is received, which receipts shall be entered in the register's office of *Middlesex*, and be deemed records: and on such payment and registry, all the estate of every person, for whose use such money was paid, in the premises, shall vest in the trustees in fee simple discharged from all claims.

Sect. 8. After payment it shall be lawful for the trustees to enter upon the premises, and to convert the same to be used as a free market.

Sect. 9. It shall be lawful for the trustees or nine of them, to borrow any sums not exceeding three thousand pounds, for the payment of such purchase-money, and for the purposes of this act; and to build upon such lands so purchased, all such sheds and other erections as are necessary

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for the market; or to let out such ground for the best rent upon leases for any term not exceeding sixty-one years, with covenants binding the lessees to build all necessary erections for converting the same into a market.

Sect. 10. No money shall be borrowed on the credit of this act, unless notice in the *London Gazette* be first given, at least twenty days before the borrowing of such money.

Sect. 11. It shall be lawful for any persons to pay to the trustees, or five of them, or their treasurer, any sums not exceeding three thousand pounds, for the purchase of annuities payable during the life of such contributor, or the life of such other person as shall be nominated on behalf of such contributor, at the time of payment; which annuities shall not exceed the rate of eight *per cent. per annum*; all which annuities shall not exceed two hundred and forty pounds *per annum*, and shall be paid by the trustees, or five of them, in such place in *Westminster* as they appoint, by quarterly payments, to begin three months after payment of their respective purchase-moneys; which annuities shall be publickly sold to the best bidder.

Sect. 12. There shall be provided by the trustees, and kept in such place in *Westminster*, as they or five of them appoint, books, in which shall be written the names and surnames, with the places of abode, of all proprietors of the annuities, and of all persons by whose hands the said purchasers pay in any money upon the credit of this act, and also the sum paid for such annuities, and the days of payment; which books it shall be lawful for any persons to inspect without fee.

Sect. 13. All the contributors upon the credit of this act, paying the purchase-money at the rate aforesaid for such annuities, or such persons as they appoint, or their respective assigns, shall enjoy

enjoy the annuities during the life of the person nominated, and shall have indefeasible estates in the annuities; and none of the said annuities shall be subject to any taxes assessed upon land by parliament; and every contributor upon the credit of this act for the purpose of any such annuities, or their assigns, upon payment of the purchase money, or any part thereof, to the trustees, or five of them, or their treasurer, shall have a receipt for so much money as is paid; and upon payment of all the purchase-money, shall have an order on parchment or vellum, for payment of the annuity for the life of the person nominated; which order shall be signed by the trustees, or five of them, and after signing the same shall be good in law.

Sect. 14. It shall be lawful for any purchaser of such annuity, his executors, administrators, or assigns, at any time by writing under his hand and seal (without any stamp) to assign such annuity or any part thereof, or any interest therein, to any person, and so *toties quoties*, and an entry of all such assignments shall be made in a book, to be kept for that purpose at the charge of the trustees, which entry shall be made gratis.

Sect. 15. The annuities so purchased shall be charged upon all monies arising by the rents and profits of the buildings in the said market, and all other the profits arising from the said market to the trustees.

Sect. 16. All the lands and hereditaments purchased under this act, for the site of the market, and all erections built thereupon, and the rents and profits arising from the same, shall be vested in the trustees and their successors for ever; and they shall stand seized thereof in trust for the uses herein after mentioned, *viz.* the trustees and their successors, or five of them, shall, out of the first monies borrowed, or arising, by granting of leases, or the sale of annuities, or by any other means under this act,

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pay the expences of obtaining this act, and in the next place pay all debts incurred by the purchase of the ground whereon the said market shall be erected, and all such charges as attend the erecting the same; and the rents and profits arising thereby shall be applied in paying the annuities to be granted as aforesaid; and all such savings as shall be made by the death of any such annuitants, shall, after the discharge of all debts, be appropriated in manner after mentioned.

Sect. 17. There shall be paid to the trustees, or such persons as they or five of them, shall appoint, the following sums, by every person selling any corn or grain, seed, malt, or flour, in the said market, *viz.*

One penny for every sack of corn, grain, malt, meal, or flour; and, one half-penny for every bushel of seed.

which sums shall be vested in the trustees and their successors; and shall be paid to the several uses, and in such manner, as by this act is directed; and it shall be lawful for the trustees, or five of them, or such persons as they under their hands and seals at a general meeting appoint, to demand the sums hereby granted, and to levy the same by distress of any goods belonging to the person liable to payment, and to keep such goods until such sums with the charges of distress be paid; and such person so distraining, after three days after such distress, may sell the goods distrained, returning the overplus, upon demand, to the owner, after such sums and the charges be paid.

Sect. 18. The trustees, or nine of them, shall at the first or any succeeding general meeting, by writing under their hands and seals, make rules for the government of the market; and shall appoint one or more collectors, and one or more

more treasurers, and other necessary officers; allowing to such persons such salaries as to the trustees, or nine of them, appear just; and the trustees, or nine of them, shall remove such treasurers, collectors, or other persons by them appointed, and place others in their stead; and the persons so appointed to collect the said sums, and such treasurers shall, before the trustees or five of them, upon the first *Monday* in every month, or oftner, if required, give in account under their hands, of all the monies to such time received and disbursed, and produce vouchers, and pay over the ballance to such persons as the trustees, or five of them, at such meeting direct; and in case such treasurers, or collectors, refuse to give in such account, or to pay such ballance, as often as required by the trustees, or five of them, at a general meeting, such persons so refusing shall be committed to the common gaol of *Westminster*, by warrant of any justice of peace for the said city and liberty, upon application by any two trustees, there to remain until he make a true account, and have produced all vouchers, and have paid over the money due on such account to such person as the trustees, or five of them direct, or have made such composition as the trustees, or five of them, approve.

Sect. 19. The trustees, or five of them, are to take such security from the treasurers for the due execution of their offices, as to them seems meet.

Sect. 20. The trustees, or five of them, shall every year, within six weeks after the twenty-fifth of *December*, deliver in to the justices of peace for *Westminster*, at the general quarter sessions, or any adjournment thereof, any account signed by them of all sums received or disbursed under this act, during the preceding year, with the ballance (if any) in their hands; and such accounts shall be kept by the clerk of

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the said sessions among the records, to be inspected by any person upon payment of one shilling to the said clerk; if any surplus of the said sums remain in the hands of the trustees, the same shall be applied yearly, within twelve months next after the delivering such accounts to the justices, to the treasurer of the *Westminster Infirmary*, for the benefit of the said charity.

Sect. 21. It shall be lawful for any person who buys any corn or grain, seed, malt, meal, or flour, in the said market, to sell the same again in any other place.

Sect. 22. And whereas by 22 Geo. 2. c. 49. sect. 12. the commissioners for building *Westminster-Bridge*, were impowered to make a grant to the trustees appointed by the said act, of a piece of ground near *Common Row*, in the city of *Westminster*, which was conveniently situated for the intended fish market, which grant has been since made; and whereas the said ground may be convenient for the corn market, in common with the said fish market; be it enacted, that in case the trustees herein appointed, or nine of them, find the said ground to be proper for holding the market for the sale of corn and grain, it shall be lawful for the trustees appointed to put the 22 Geo. 2. c. 49. in execution, or five of them, to agree with the trustees for putting this act in execution, to permit the said ground to be used as a free market for all sorts of corn and grain, seed, malt, meal, and flour, in common with the said market for the sale of fish; and the trustees appointed by the 22 Geo. 2. c. 49. in case such agreement take place, may use the said ground for the holding of a market for all sorts of corn and grain, seed, malt, meal, and flour, in common with the said market for the sale of fish.

Sect. 23.

Sect. 23. In case such agreement take place, then from the execution thereof, all the powers vested by this act in the trustees herein named shall cease, and the trustees appointed to put in execution the 22 Geo. 2. c. 49. shall be trustees for putting this act in execution, and shall be invested with all the powers in this act.

Sect. 24. It shall be lawful for the trustees appointed to put the 22 Geo. 2. c. 49. in execution, or five of them, in case such agreement take place, to empower the lessees of the premises, their executors, administrators, or assigns; to permit any person to dwell in or occupy any building erected in any of the premises, for the carrying on therein any trade or business, relating to the buying or selling corn and grain, malt, feed, meal, and flour.

Sect. 25. It shall be lawful for the trustees, or nine of them, if they think fit, to suffer corn and grain, feed, malt, meal, and flour, to be sold for any time not exceeding three years from the opening of the said market, without the payment of any toll; and to lessen the toll, from time to time, as to them, or nine of them, at a publick meeting appears reasonable; notice of which meeting shall be given in the *London Gazette*, one week before such meeting.

Sect. 26. No trustee for putting this act in execution, shall have any place of profit arising out of any sums by this act granted.

Sect. 27. When any trustee dies, or by writing under his hand refuses to act, it shall be lawful for such of the trustees as remain, or nine of them, at any general meeting, by writing under their hands and seals, to appoint one or more fit persons in the room of such trustees so dying or refusing to act.

Sect. 28. The first meeting of the trustees shall be on the first *Tuesday* in *July*, one thousand seven hundred and fifty-eight, at the *King's Arms*

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Arms tavern in *New Palace Yard*, within the city of *Westminster*; and they shall have power to adjourn their succeeding meetings, from time to time, and to such places within the said city or liberty as they think fit.

Sect. 29. If any action be commenced for any thing done in pursuance of this act, the same shall be commenced within six months after the offence committed; and the defendant may plead the general issue; and if the plaintiff be non-suit, &c. the defendant shall recover treble costs.

Sect. 30. This act shall be deemed a publick act.

Debt.

Stat. 14 *Geo. 2. c. 10. sect. 1.* It shall be lawful for every citizen and freeman of *London*, and every other person inhabiting within the said city or liberties, and every person who rents or keeps any shop, shed, stall, or stand, or seeks a livelihood in the said city or liberties, which have any debt owing to him not exceeding forty shillings, by any person inhabiting or seeking a livelihood within the said city or liberties, during their respective inhabiting there, to cause such debtor to be summoned by any of the beadles, or officers of the court of Requests, by writing left at the dwelling house, lodgings, shed, stall, or stand, or any other place of seeking a livelihood of such debtor, or by any other reasonable notice, to appear before the commissioners of the court of requests, holden in the *Guild-hall* of the said city. And the said commissioners, or three of them, shall, after summons, have power by this act to set down such orders between such parties as stand with equity and good conscience; all such orders to be registered in a book as they have been accustomed to be.

Sect. 2. If any person contemptuously affront any of the commissioners of the said court, during

ing the time of their sitting, it shall be lawful for the commissioners then sitting, or three of them, to certify under their hands and seals the name of the person so offending, and the nature of his offence, to the lord-mayor of *London*; who shall summon such person before him; and upon his appearance, and the fact alledged being proved upon the oath of one or more witnesses, or in default of his appearance, shall punish the person so offending, by fine or imprisonment, or both; provided the fine do not exceed twenty shillings, and imprisonment be for no longer than ten days.

Sect. 3. Upon the non-payment of the said fine, it shall be lawful for the lord-mayor to issue a warrant for levying the said fine on the goods and chattles of every offender, and to cause sale to be made thereof in case they be not redeemed in five days; which fine when levied shall be paid over to the church wardens or overseers, of the poor of the parish, wherein such offender, at the time of such offence, inhabits, or seeks a livelihood, towards the support of the poor.

Sect. 4. The number of beadies or officers employed in the execution of the orders of the said commissioners, may, by the court of lord-mayor and aldermen of *London*, be enlarged to two or more, not exceeding four.

Sect. 5. The act 3 *Jac.* 1. c. 15. (See p. 183.) And all things therein not hereby altered, shall continue in force, and extend to all persons to whom this present act doth extend.

Sect. 6. If any action be brought for any thing done in pursuance of this act, or the act 3 *Jac.* 1. c. 15. the action shall be brought within six months after the fact committed; and shall be laid in the city of *London*; and the defendant may plead the general issue; and if the plaintiff become nonsuited, &c. the defendant shall recover double costs.

Sect. 7.

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Sect. 7. This act shall be deemed a publick act.

Drapery.

In stat. 17 *Ed. 4. c. 5.* there is an exception, as to *London and Bristol*; concerning sealing with wax at both ends, woollen cloths, half cloths, streaks, and kerseys, being perfect in making and measure; but those of *London and Bristol* are to be sealed with lead.

And by stat. 39 *Eliz. c. 26.* The owner of northern cloths brought up to be sold in *London*, shall cause them to be brought to *Blackwell hall* to be searched, dry, without wetting, on pain of forty shillings, between the queen and informer.

Election.

Stat. 11 *Geo. 1. c. 18. sect. 1.* Upon every election of citizens to serve in parliament for the city of *London*, and upon all elections of mayors, sheriffs, chamberlains, and other officers, for the said city by the liverymen, and upon all elections of aldermen and common-council-men, the presiding officers shall, in case a poll be demanded by any of the candidates, or two of the electors, appoint clerks to take the same, which clerks shall take the poll in the presence of the presiding officer, and be sworn by him, truly and indifferently to take the same, and to set down the name of each voter, and the place of his abode, and for whom he shall poll, and to poll no person who shall not be sworn, or being a Quaker, shall not affirm, according to this act: and every person before he is admitted to poll at any elections of citizens to serve in parliament, or of any officers usually chosen by the liverymen, shall take the following oath, or being a Quaker, shall solemnly affirm the effect thereof, *viz.*

YOU do swear, that you are a freeman of London, and a liveryman of the company of and have been so for the space of twelve calendar months, and

*and that the place of your abode is at in
and that you have not polled at this
election.*

So help you God.

And at the election of any alderman or common-council-man, no person shall be admitted to poll before he hath taken the oath following, or being a Quaker hath affirmed, *viz.*

YOU do swear, that you are a freeman of London, and an house-holder in the ward of and have not polled at this election.

So help you God.

Sect. 2. All persons having right to vote at such elections shall (if required by any of the candidates, or any two of the electors) take the oaths in the act of 1 Geo. 1. c. 13. for the security of his majesty's person and government, &c. or being a Quaker, the effect thereof; and the presiding officers at such elections, and such sworn clerks, are impowered to administer the above mentioned oaths; and if such presiding officer or clerk offend in the premises, he shall forfeit sixty pounds besides costs.

Sect. 3. If any person shall falsely and corruptly take the said oaths or affirmations, and be thereof convicted by indictment, or information; or if any person shall corruptly procure or suborn any other person to take the same, and shall be thereof convicted, the offender shall suffer as persons convicted of wilful and corrupt perjury at common law.

Sect. 4. If a poll shall be demanded at any of the above mentioned elections, the presiding officer shall begin the poll the day it shall be demanded, or the next day, and shall proceed therein from day to day, until such poll be finished;

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finished; and shall finish the poll at elections by liverymen within seven days, and the poll at the wardmote within three days, after the commencing the same; and shall, upon adjourning the poll on each day, seal up the books with the seals, and in the presence, of such of the candidates; or persons deputed by them, as shall desire the same; and the poll books shall not be opened but at the same time and place of meeting; and after the poll is finished, the poll books shall within two days, be publickly opened at the place of election, and cast up; and within two days after, the numbers of the votes shall be declared at the place of election; and if a scrutiny be demanded, it shall be granted, and the candidates shall nominate to the presiding officers any number of persons qualified to vote, not exceeding six, to be scrutineers, to whom the presiding officers shall, within six days, upon request and at the charge of the candidates or scrutineers, deliver a copy, signed by such officers, of the poll; and the scrutinies upon any election by livery, shall begin within ten days after the delivery of the copies of the polls, and be proceeded upon day by day, and shall be finished within fifteen days after commencement; and the presiding officers shall within four days after the finishing such scrutiny, declare at the place of such election which of the candidates is duly elected, and the number of legal votes for each candidate; and on the election of any officers at the wardmotes, if a scrutiny be demanded, the candidates or scrutineers, shall, within ten days after the receipt of the copies of the poll, deliver to the presiding officer, the names in writing of the persons against whose votes they shall object, with the particular objections against each name; and the presiding officer shall within three days, at the request and charges of any candidate, or the scrutineers, deliver copies signed of the paper

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containing such names, and within ten days, after having heard such of the candidates as shall desire it, or some persons appointed by them, shall at the place of election declare which of the candidates are duly elected, and the number of legal votes; and if the presiding officer, or any other person, shall offend in the premises, such offender shall forfeit two hundred pounds with costs, over and above all other penalties.

Sect. 5. After any election and scrutiny, the presiding officer shall deliver under his hand a list of the voters by him disallowed, to any of the candidates who shall demand the same, within six days after such demand, such candidate paying for the same; provided that no such list shall be given in evidence.

Sect. 6. The mayor of *London*, on request made by any candidates, or their agents, at any election of citizens to serve in parliament, or of a mayor or other officer, to be chosen by the liverymen, where a scrutiny is granted, shall issue his precepts, requiring the master and wardens of the livery companies to cause their clerks to return two lists of the liverymen of their companies; and the clerks shall return such lists upon oath within three days after the receipt of such precepts, one of which lists the mayor shall deliver to the candidates on each side, or their agents.

Sect. 7. The right of election of aldermen and common-council men, shall belong to freemen, being house-holders, paying scot and bearing lot.

Sect. 8. Provided that the houses of such householders be of the value of ten pounds a year, and that such householders be the sole occupiers, and have been in possession of a house of such value in the ward, twelve calendar months.

Sect. 9. The rates are declared to be, to the church, to the poor, to the scavenger, to the orphans,

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orphans, and to the rates in lieu of watch and ward, and to such other annual rates as the citizens shall be liable to, except the annual aid granted by parliament; and if such householder shall have paid his scot to all the said rates, or thirty shillings a year to all or some of them, he shall be deemed a person paying scot.

SECT. 10. Provided that such householder shall have paid his scot to all the said rates, or thirty shillings a year in the whole, within the space aforesaid; and if any partners carry on a joint trade in any such house, such partners shall have votes, so as the house be of the value of as many sums of ten pounds a year as there are partners.

SECT. 11. Where two persons, not being partners, shall have severally inhabited in the same house, such persons shall have votes, so as the house be of the yearly rent of twenty pounds; and each of them pay the yearly rent of ten pounds.

SECT. 12. This act shall oblige any persons to pay scot, or bear lot, from which they are exempted by act of parliament, charter, or writ of privilege.

SECT. 13. It shall be lawful for persons aggrieved by assessments, for the orphans, or for watch and ward, to appeal to the mayor and court of aldermen.

SECT. 14. No person shall have right to vote at any election by the livery-men, who have not been upon the livery twelve calendar months, and who shall not have paid their livery fines, or who shall have received such fines back again in part or in all, or shall have had any allowance in respect thereof; and no persons shall have a right to vote, who have within two years next before requested to be, and have been, discharged from paying taxes, or have within that time received alms.

Sect. 15.

Sect. 15. No act shall be made in the common-council without the assent of the mayor and aldermen present, or the major part of them, nor without the assent of the commons present.

Sect. 16. Nothing in this act shall extend to any election in common-council of any common serjeant, town-clerk, judges of the sheriffs court, coroner, common-crier, commissioners of sewers, garbler, and the governor and assistants of London, of the new plantation of Ulster, in Ireland.

Sect. 17. It shall be lawful for all persons who after the first of June, 1725, shall become free of the city, and for all who at that day shall be unmarried, and not have issue by any former marriage, to dispose of their personal estate.

Sect. 18. If any who shall be free of the city, hath agreed, or shall agree, by writing, in consideration of his marriage, or otherwise, that his personal estate shall be distributed according to the custom of the city; or in case any person so free shall die intestate, his personal estate shall be subject to the custom of the city.

Sect. 19. There shall be omitted out of the oath of a freeman the words following, viz. [*ye shall know no foreigner to buy or sell any merchandize with any other foreigner within the city, or franchise thereof, but ye shall warn the chamberlain thereof, or some minister of the chamber,*] and also the words following, viz. [*ye shall implead or sue no freeman out of the city, whilst ye may have right and law within the said city*] and after these words [*ye shall take no apprentice*] the words immediately following shall also be omitted, that is to say [*but if he be free born, that is to say, no bondsmans son, nor the child of any alien*] and for [*no*] and instead thereof, these words [*for any*] shall be inserted.

Sect. 20.

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Sect. 20. All the forfeitures hereby enacted shall be distributed; one third to the king, one third to the chamberlain for the use of the city, and the remaining third to the prosecutor, who will sue within six kalendar months after the same shall be incurred.

Sect. 21. This act shall be a publick act.

Fish.

Stat. 22 Geo. 2. c. 49. sect. 1. There shall be a free and open market held in the city of *Westminster*, for all sorts of fish; and it shall be lawful for any person to buy and sell any sort of fish in the said market, without any disturbance, paying such sums as are herein after mentioned.

Sect. 2. Lieutenant general *James Oglethorpe*, and twenty-five others named in this act, shall be trustees for putting this act in execution; and they, or the survivors of them, or five of them, are hereby invested with all the powers given by this act.

Sect. 3. There shall be paid to the said trustees, or such person as they appoint, the following sums by every person selling any fish in the said market.

For each vessel laden with salt fish, for groundage, eight pence for each day, and twenty pence for each voyage.

For each lobster-boat, dogger-boat, smack, or other vessel, laden with fresh sea fish, two pence for each day, for groundage, and thirteen pence for each voyage.

For every oyster-vessel, or cock, two pence each day for groundage, one half penny for each bushel for metage, and thirteen pence for each voyage.

which sums shall be vested in the said trustees, and disposed of as is herein after directed; and it shall be lawful for the said trustees or such person as they under their hands and seals at a general meeting appoint, to demand the sums hereby granted,

granted, and to levy the same by distress of any boat or tackle, belonging to the person liable to the payment, and to detain such goods until such sums, with the charges of distraining and keeping, be paid; and such person so distraining after three days after such distress taken, may sell the goods, returning the overplus to the owner.

Sect. 4. The trustees may, at a general meeting for that purpose, by writing under their hands and seals, assign over the said sums arising by this act, as a security for any sum of money to be borrowed by them for the purpose of this act, with interest not exceeding five pounds *per cent. per annum*.

Sect. 5. Out of the money arising by this act, or the money borrowed on the credit thereof, the trustees at a publick meeting, shall in the first place, pay all expences of passing this act, and in the next place, the expences of laying out and erecting a place for the said market, and in finishing and keeping the same in repair, and all other necessary expences.

Sect. 6. The said trustees may at any general meeting, by writing under their hands and seals, appoint a collector or collectors, and a treasurer or treasurers, and all other necessary officers, allowing such persons reasonable salaries; and the said trustees may remove such treasurers or collectors, or other persons, and place others in their stead; and the persons so appointed to collect, and such treasurers, shall, before the trustees, upon the first *Monday* in every month, or oftner, if required, give in an account under their hands of all monies received and disbursed, and produce vouchers, and pay over such ballance to such person as the trustees at such meeting direct; and in case such treasurers or collectors, refuse to give in such account as often as required, such person so refusing shall be committed to the common gaol of the said city and liberty, by
warrant

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warrant of any justice of peace for the said city and liberty of *Westminster*, upon application by two of the trustees, until he render an account of his receipts and disbursements, and deliver up all vouchers, and have paid over the money due on such account to such person as the trustees appoint.

Sect. 7. The trustees shall yearly within six weeks after the twenty-fifth of *December*, deliver in to the justices of peace, acting within the city of *Westminster*, at any petty or special sessions, an account entered in a book and signed by the trustees, or five of them, of all sums received or disbursed under this act, during the preceding year, with the ballance in their hands : and such accounts shall be kept by the clerk of the sessions among the records, to be inspected by any person, upon payment of one shilling to the said clerk ; and if any surplus of the said sums remain in the hands of the trustees, the same shall be applied yearly within twelve months after delivering such accounts, in the binding out boys apprentices to fishermen, masters of ships, or other persons employed in the sea service ; such boys to be chosen by a majority of the trustees at a general meeting.

Sect. 8. It shall be lawful for any person buying any fish in the said market, to sell the same in any other place within the city of *Westminster*, or elsewhere, being sound and wholesome fish.

Sect. 9. After the twenty-ninth of *September*, one thousand seven hundred and forty-nine, all contracts before that time made, and to take effect after the said twenty-ninth of *September*, one thousand seven hundred and forty-nine, between any fishermen and fishmongers, or between any persons in regard to the sale of fish, to be afterward sold by retail, shall be void ; and all such contracts made to take effect in part, before

before the said twenty-ninth of *September*, one thousand seven hundred and forty-nine, shall be void, so far as they be intended to take effect at any time subsequent to the said twenty-ninth of *September*, one thousand seven hundred and forty-nine; and if after the twenty-ninth of *September*, one thousand seven hundred and forty-nine, any person enter into any contract for buying up fish to be sold again by retail, before such fish be brought to an open market, and there exposed to publick sale, such contract is declared to be void; and every party so contracting, as well the buyer as the seller, shall forfeit for every such offence, fifty pounds, to be levied in manner after mentioned; one moiety to be paid to the trustees appointed by this act, or their order, and to be placed to the general account, and the other moiety to such person as shall inform and sue for the same.

Sect. 10. If either of the parties so contracting, before any information against him, inform against the other, such party so informing, so as such other may be duly convicted, shall not only be acquitted from the said penalty, but also be intitled to sue for it in his own name, and recover the whole forfeiture incurred by the other; one moiety to be paid to the trustees, and appropriated as aforesaid, and the other moiety to such person who shall sue for the same.

Sect. 11. Nothing in this act shall make void any contracts already made, or prevent any contracts to be made by any person in regard to fresh salmon or soles brought by land carriage, or oysters, or salt or dried fish.

Sect. 12. If any person, natives, or foreigners, keep any fish at *Queenborough*, *Gralewend*, or other place, in any well boat, store-boat, or any other manner, so as not to sell off their whole cargo within eight days from their arrival on the *British* coast, between *North Yarmouth* and

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Dover, every person so offending, and convicted by confession, or the oath of one witness, shall, for every such offence, forfeit his whole cargo of fish, and the vessel with her furniture; to be levied by distress and sale, by warrant of any justice of peace for the county where the offence is committed; and the produce thereof shall be applied, one moiety to the use of the informer, and the other moiety to the poor of the parish where the offence is committed.

Sect. 13. And whereas the commissioners for building a bridge cross the *Thames*, are possessed of a piece of ground near *Cannon Row*, in the city of *Westminster*, which is conveniently situate for the said intended market; the said commissioners are hereby empowered to make a grant of the said piece of ground to the trustees appointed by this act, and their successors, for holding the said intended market; for which the trustees shall pay the said commissioners five pounds, as the purchase money.

Sect. 14. The property of all the buildings, and the materials for making the said market commodious, shall be vested in the trustees, and they are to bring actions, or prefer indictments, against any person stealing or damaging such building, or materials.

Sect. 15. No trustees shall accept of any place of profit arising out of any sums by this act granted.

Sect. 16. As often as any trustee dies, or by writing under his hand, refuses to act, it shall be lawful for such of the trustees as remain, or seven of them, at any general meeting, by any writing under their hands and seals, to elect a person in the room of such trustee so dying, or refusing to act, and such person so appointed shall be joined with such remaining trustees.

Sect. 17. The first meeting of the trustees shall be on the second *Monday* in *July* at the *King's*

King's arms in *New-palace-yard*, in *Westminster*; and they shall have power to adjourn their succeeding meetings from time to time, and to such places as they think fit.

Sect. 18. All bonds, or other securities, entered into for not suing or recovering any penalty incurred by this act shall be void.

Sect. 19. All penalties inflicted by this act, if not otherwise directed to be recovered, shall be prosecuted by action of debt, &c. in any court of record at *Westminster*; wherein no essoin, &c. shall be allowed, and such forfeitures shall be applied (if not otherwise directed) one moiety to the person who informs or sues for the same, and the other moiety to the poor of the parish where the cause of action arises. See 29 Geo. 2. c. 39. sect. 15. *infra*.

Sect. 20. If any action be commenced for any thing done in pursuance of this act, such action shall be brought within six months after the fact committed; and shall be laid in the county or place where such offence is committed; and the defendant may plead the general issue; and if the plaintiff become nonsuited, &c. the defendant shall recover treble costs.

Stat. 29 Geo. 2. c. 39. sect. 1. If any fisherman, master, or owner, of any fishing-vessel, coming from sea, or other person, having the conduct of such fishing-vessel, natives, or foreigners, employed either in catching, bringing, or vending of fish, for the supply of *London* and *Westminster*, break bulk, or make sale of any part of their fish, between *Harwich* and the *Nore*, or between *Margate* and the *Nore*, to any person to sell again, or keep any salt-fish, or other fish in their fishing-vessel, or in any well boat or store-boat, after their arrival, so as not to sell off their whole cargo within eight days, from the day of their arrival at the *Nore*, and thereof be convicted before a justice

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of peace, for the counties of *Kent* or *Essex*, or before the mayor, recorder, or such aldermen who have power to act as justices of peace within the corporations of *Queenborough* or *Gravesend*, on his own confession under his hand, or on the oath of one witness (which conviction shall be final and without any appeal) such fishing-vessel, store-boat, or other boat, into which the said fish are unloaded, with all furniture, together with the whole cargo of fish, shall be forfeited by the owners; such forfeitures to be levied by distress and sale, by warrant of any justice of peace within the counties of *Kent* or *Essex*, or of the said mayor, recorder, or aldermen, acting as magistrates within the towns of *Queenborough* and *Gravesend*, or such mayor, recorder, or alderman, of any corporate town, between *Queenborough* and *Gravesend*, and *Westminster*; which warrant the said justice or mayor, &c. is to issue accordingly, directed to the high constable, petty constable, headborough, or tythingman, of either of the said towns of *Queenborough*, or *Gravesend*, or any other towns as aforesaid, near unto where any such offences be committed, or where such fishing vessel, store-boat, or other boat, then is, to seize and sell the same within fourteen days; and one moiety of the produce of such sale, after charges deducted, shall be paid to the informer or informers, as the said justices appoint, and the other moiety to the trustees appointed to put the 22 *Geo. 2. c. 49.* and this act in execution, to be placed by them, or five of them, or their order, to the general account of surplus of profits arising from the fish market in the said act mentioned, and to be appropriated as the said surplus.

Sect. 2. In case any such fishing-vessel is loaded with lobsters, or whose part loading may be lobsters, and the fishermen, or other persons, natives, or foreigners, who are owners of lobsters, or have the power to sell the same, sell off
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her whole cargo of lobsters, within twelve days after the arrival of such vessel at the place herein before appointed, and in all other respects conform to the directions of the 22 Geo. 2. c. 49. and this act; then the sale of the whole cargo of lobsters shall be as good a sale, as if such sale had been compleated within eight days.

Sect. 3. It shall be lawful for every fisherman, master or owner of any fishing-vessel coming from sea, and every person having the conduct of any such fishing-vessel, as often as need requires, during their voyages at sea, and before their arrival at the *Nore*, to remove any part of their cargoes of fish into any other vessel, for the ease of their wells, the preservation of their fish, and the separating such as are dead, dropt, or sickly, from those which are sound; so that no part of such cargo of fish be sold until their arrival at or above the *Nore*.

Sect. 4. It shall be lawful for any fisherman, or owner, of any pater-boat, or other small fishing-vessel, employed for serving the inhabitants of any city, town, or village, or the neighbourhood thereof, on or near the banks of the said river, between the mouth of the river, and the towns of *Queenborough* or *Gravesend*, to sell their fish as hath been heretofore used, in case such boats or fishing-vessels are only employed for the consumption of such fish within such city, towns, or villages, and the inhabitants thereof, or of the neighbourhood.

Sect. 5. The trustees for putting the said former, and this act, in execution, or nine of them, shall by writing under their hands and seals, appoint one or more inspectors of the fishing-vessels, to search every fishing-vessel, whether boat, or store-boat, belonging to any fisherman, or other person, natives, or foreigners, at any time after the arrival of any fishing-vessel at the *Nore*, or in any part of the *Thames* between the *Nore* and *Billinggate-dock*; to take account, as

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of the arrival of such vessel, as of the time of selling the whole cargo of fish, and of the breaking bulk, and unloading such vessel, and shifting the cargo, or any part thereof, into such well-boats, and of the delivery or selling off such cargo in such manner as directed by the 22 Geo. 2. c. 49. or this act, and remove such officers at their pleasure; which inspectors are to enter and examine such fishing vessels, well-boats, and store boats; and every person on board is to give to the said inspector such account thereof; and in case any person refuse to give such account, or molest or hinder such inspector, in the execution of his office, or endeavour to prevent any person on board from giving such account, every person so offending, being convicted before a justice of peace, as in this act directed as aforesaid, by confession, or on the oath of one witness, shall for every such offence forfeit ten pounds, to be recovered and applied as the other penalties in this act.

Sect. 8. It shall be lawful for the high constable, petty constable, headborough, or tythingman, of *Queensborough, Gravesend*, or any other towns, being corporations, or of any county, city, or liberty, to whom such warrant of distress is directed, to execute the same in any part of the river *Medway*, or the river *Thames*, or any creek thereof between the *Nore* and the city of *Westminster*; and such warrant, or other act of the said mayors, recorders, aldermen or justices, of peace, and the acts of the constable, headborough, tythingman, or other person, in obedience to such warrant, shall be as good in law as if the same were executed within the proper limits of their own jurisdiction.

Sect. 9. If any person sell or expose to sale, in any house, shop, stall, or standing, any fish, within five hundred yards of the said free fish-market, appointed to be held in the city of *Westminster*,

Westminster, or the limits of such ground as hath been appointed by the said act for the same, without the licence of the said trustees appointed to put the said act and this act in execution, or five of them, under their hands and seals first obtained, such person shall for every such offence forfeit five pounds, to be paid on conviction before any two justices of peace for *Westminster*, on confession, or on oath of one witness, without further appeal; with power nevertheless, to such justice or justices, of mitigating the same; and on refusing payment on such conviction, then such justice, or any other justice of peace, shall grant their warrant of distress, to levy the same upon such offender's goods, and divide the sum wherein such offender stands convicted, as follows, *viz.* one half to the informer, and the other half to the trustees appointed by the said act, to be applied to the same use as the surplus monies arising by the profits of the market.

Sect. 10. And whereas the said trustees have granted a lease to *Richard Hughes*, of part of the assigned ground for the said fish market, wherein the said *Richard Hughes* hath built eight houses, and he is restrained by the said lease, from letting the said houses to any other than fishmongers, and even such fishmongers are in danger of incurring the penalties against regrators, should they expose to sale in their shops, any fish bought in the said market; be it enacted, that it shall be lawful for the said trustees, or nine of them, by writing under their hands and seals, to dispense with such restraint, and to defeazance the covenant of the said *Richard Hughes*, so far as it respects to two end houses of the said eight houses; and it shall be lawful for any fishmongers holding shops for the sale of fish in any of the said eight houses, to sell any fish in their said shops, although they have bought the same in the said fish-market at *Westminster*.

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SECT. 11. And whereas *William Hanington*, fishmonger, hath purchased a messuage in *Bridge Street*, in *Westminster*, within five hundred yards, from the said fish-market, and will be a sufferer if he should be restrained from carrying on his trade in the said house, the said trustees, or five of them, shall pay to the said *William Hanington*, his executors, or administrators, before *Michaelmas day* next, two hundred pounds for the loss he may sustain.

SECT. 12. The said *William Hanington* shall not be subject to any penalties inflicted by this act, on such persons as sell fish within five hundred yards of the said fish-market, until *Michaelmas day* next, and until such time as the said two hundred pounds be paid unto him.

SECT. 13. It shall be lawful for the said trustees, or seven of them, at a publick meeting, by writing under their hands and seals, to assign over any annual or other rent, or sums of money, reserved or made payable by any grant, lease or agreement, between the said trustees, and any person, for the ground and premises assigned for holding the said fish-market, or any part thereof, or any building thereon, as a security for such sums of money, as the said trustees borrow for the purposes of the said act and this act, with interest not exceeding five *per cent per annum*; and the said trustees shall apply the money which they so borrow, to the discharge of debts contracted in executing the said act, and in paying to the said *William Hanington*, his executors, or administrators, such sum of two hundred pounds, and for such uses as the said trustees are empowered by this or the said act, to apply such monies as might arise by tolls and duties.

SECT. 14. So much of the said act 22 *Geo. 2. c. 49. sect. 21.* as gives allowance for the exposing to sale, or exchanging any of the kinds of fish therein described, and under the dimensions

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prohibited by 1 Geo. 1. c. 18. sect. 7. in case the same are taken with a hook, shall be repealed.

Sect. 15. Such part of the penalties which by 22 Geo. 2. c. 49. are to be paid to the poor of the parish where the offence is committed, shall be paid to the trustees mentioned in the said act, or such person as five of them appoint, to the increase of the surplus of the tolls and profits thereby appropriated to the putting out apprentices to fishermen, masters of ships, or other persons employed in the sea service. And all the trustees appointed under the authority of the said act, shall execute this as well as the said act; and all clauses in the said act shall stand in force, except such parts as are altered by this act.

Sect. 16. If any action be commenced for any thing done in pursuance of this act, such action shall be brought within six months next after the fact committed, and shall be brought in the county or place where such offence is committed; and the defendant may plead the general issue; and if the plaintiff be nonsuited, &c. the defendant shall recover treble costs: See Stat. 33 Geo. 2. c. 27. 2 Geo. 3. c. 15.

The stat. 7 Ed. 6. c. 7. gives power to the Fuel-lord-mayor of London, to order the assize of fuel, billet, faggot, &c. and by the 43 Eliz. c. 14. the said statute is continued, and enjoined to be observed in London and Westminster, where billet, faggots, and wood, are used to be sold: billet-wood for fuel, must be three feet four inches long, and seven inches and a half in compass, and inquiry shall be made by the oaths of six men of the assize thereof; and being under size, it shall be forfeited to the poor, &c.

By the stat. 27 Ed. 3. and 31 Eliz. c. 3. &c. Gauging and all wines imported shall be gauged; and selling garbling wine before gauged, or resisting the gaugers, incurs a forfeiture of the wine, or the value.

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Beer, &c. imported, is to be gauged by the masters and wardens of the Coopers company.

The office of garbling spices, &c. with all the fees and profits thereof, by the aforesaid charters is also granted to the mayor and citizens of *London*; and all spice and drugs are to be cleansed and garbled before sold, on pain of forfeiting the same, or the value.

Gold and
goldsmiths.

The warden of the company of Goldsmiths in *London*, &c. is to assay gold and silver manufactures; which shall be of good and true alloy, and be marked. Stat. 23 *Ed.* 1.

Goldsmith-wares are not to be made of false metal; and to have eleven ounces and two penny-weights of silver, &c. to the pound, on pain of forfeiture; and no goldsmith shall take above one shilling the ounce of gold, besides the fashion, more than the value.

Gunpowder.

The stat. 5 *Geo.* 1. c. 26. enacts, that no person shall keep more than six hundred pounds of gunpowder at a time, in any store-house in the cities of *London* and *Westminster*, or the suburbs, upon pain of forfeiture, and twenty shillings for every hundred weight, refusing to remove the same.

No more than twenty hundred weight of gunpowder is to be carried at a time, through *London* or *Westminster*, &c. and all gunpowder shall be carried in covered carriages, and the barrels close jointed and hooped, and be put into bags of leather or canvas; or shall be liable to forfeiture.

Justices of the peace in *Essex*, *Kent*, and *Surrey*, at their quarter-sessions may appoint proper plats of ground for erecting store-houses for keeping gunpowder, &c.

By a subsequent act, the quantity of gunpowder to be kept, shall not exceed two hundred pounds weight; and justices of peace are to issue warrants to search for, and remove the same, if any person has more.

See

See *Payment*.

Highways.

See *Constable*.

Jury.

By Stat. 22 and 23 Car. 2. c. 19. foreigners Market. as well as freemen, may buy and sell any cattle in *Smithfield market*. See title *Billinggate* and *Blackwell hall*.

Stat. 24 Geo. 2. c. 48. sect. 11. The solemn Mayor. nity of presenting and swearing the mayors of *London*, in the court of *Exchequer* at *Westminster*, after every annual election, in the manner heretofore used on the twenty ninth of *October*, shall be observed on the ninth of *November* in every year; unless the same fall on a *Sunday*, and then on the day following.

Stat. 25 Geo. 2. c. 30. sect. 4. The annual admission and swearing of the mayor of *London*, at the *Guildhall* there, and all annual meetings for that purpose, shall be, in the accustomed manner, on the eighth of *November* in every year; being the day next preceding the ninth of *November*, whereon the presenting and swearing, the mayor of the said city in the *Exchequer*, is appointed by 24 Geo. 2. c. 2. sect. 11.

The lord-mayor of *London*, and the masters Oilmen. and wardens of the tallow chandlers company, have power to search all oils brought to *London* to be sold; and to oversee that the same be not mixed or altered by oilmen, from their right kinds; and what they shall find mixed deceitfully, they are to cast away, and punish the offenders by imprisonment, or otherwise, at their discretion, according to the laws and customs of the city. Stat. 3 Hen. 8. c. 14.

By a statute made in the first year of king *James I.* for the benefit of the painters of *Law*. Painters and Plasterers. *London*, it is enacted, that no plaisterer shall exercise the art of a painter in the city or suburbs; or lay any colour or painting, whatsoever, unless he be a servant or apprentice to a painter, or have served seven years apprenticeship to that trade,

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under the penalty of five pounds, but plaisterers may use whiting, blacking, red oaker, &c. mingled with size only, and not with oil. 1 Jac. 1. c. 20.

The price of common painters work is limited by this act.

Pavement.

Stat. 31 Geo. 2. c. 17. sect. 1. All pavements within the city and liberty of *Westminster*, belonging, or opposite, to churches, or other public buildings or grounds, which are the property of any parish, and which ought to be repaired by such parish, shall be kept in repair; and all annoyances belonging thereto be removed by the church-wardens of such parish; and all pavements belonging or opposite to markets, shall be kept in repair, and all annoyances belonging thereto, be removed, by the proprietors of such markets, their agents or lessees; and all pavements belonging or opposite to hospitals, alms-houses, charitable foundations, and all other public buildings, not being the property of any parish, shall be repaired, and all annoyances belonging thereto be removed, by the principal officer or person residing in such buildings respectively, who are hereby declared the occupiers thereof; and all pavements belonging to grounds, or adjoining to any wall or fence, where no houses are built, shall be repaired, and all annoyances belonging thereto be removed, by the owners of such grounds, or other persons who of right ought to repair such pavements, or remove such annoyances. And the annoyance jury appointed by the 29 Geo. 2. c. 25. or any twelve or more of them shall present all bad pavements, and all annoyances belonging, or opposite to all such buildings, places and grounds, first leaving notice in writing with such church-wardens, proprietors of markets, their agents or lessees, principal officers, or persons residing in such buildings, or owners of such grounds, or affixing the

the same upon some publick part of such buildings, or on the walls or fences of such grounds, where any defective pavements or annoyances are found, of their intention to present the same; and in case such church-wardens, &c. within fourteen days next after such notice, cause not such pavements to be amended, and annoyances to be removed, then the said jury shall amerce the said church-wardens, &c. in such sum as they think proper, not exceeding forty shillings for one offence.

Sect. 2. All tenants or occupiers of houses, buildings, or grounds, within the said city and liberty, shall be liable to repair the pavements belonging or opposite to any such houses, &c. And it shall be lawful for all tenants to deduct out of their rent all sums expended in repairing such pavements, according to notice to be given for that purpose, by the annoyance jury; except where tenants are by any covenant or agreement to keep such pavements in repair at their own expence.

Sect. 3. When any person belonging to or employed by, any of the proprietors of water-works, or any person employed by them, breaks, takes up, or damages, any pavement within the said city and liberty, such person shall cause the same to be relaid or repaired, as soon as may be, with durable stone and gravel, and in a substantial manner, and in case they do not relay or repair such pavement, with all convenient speed, and to the satisfaction of the person to whom the same belongs; such person may at any time within fourteen days next after such pavement has been broken up or damaged, apply to the foreman, or to any one of the annoyance jurymen of the division for the parish wherein such pavement is, who, together with six or more, of the jurymen for that division, shall view the premises; and if upon their view it appear that such

such pavement hath not been relaid in due time, or in the manner before directed, the said jurymen shall direct the person to whom such pavement belongs, or who is liable to repair the same, to cause the same to be relaid or repaired: and when such pavement has been relaid or repaired according to the direction of the said jurymen, the person to whom such pavement belongs, and who caused such pavement to be relaid or repaired, may apply to a court to be held by the dean of *Westminster*, or the high steward of the city and liberty of *Westminster*, or his deputy, the two chief burgesses of *Westminster*, and the other burgesses, or five of them, whereof the dean, high steward, or his deputy, or one of the two chief burgesses, to be one; and the said court are to examine into the premisses upon oath; and the said jury, or twelve of them, shall, at the said court amerce any other person belonging to or employed by any of the proprietors of water-works, upon whose account such pavement has been broken up or damaged, and not relaid or repaired, in so much money as appears to the said court to be justly expended, in relaying or repairing such pavements; and in a further sum not exceeding forty shillings, nor less than twenty shillings, for every such neglect; which money so expended in relaying or repairing such pavement, shall, when recovered, be forthwith paid by the said court, to the person who caused such pavement to be relaid or repaired, according to the direction of the said jurymen.

Sect. 4. No such amercement shall be imposed upon any such person aforesaid, unless three days notice in writing hath first been given by the said court to such person.

Sect. 5.

Sect. 5. No person belonging to any company of water-works, shall break up or damage any pavement within the said city and liberty, without first giving notice in writing, by what company of water-works he is employed, to the proprietor or occupier of the house, ground, wall, or building, to which such pavement belongs, or by affixing such notice upon some conspicuous part of such house, &c. where the proprietor or occupier cannot be found; and in case any such person break up or damage any pavement without giving such notice, every such person shall be amerced by the said jury in any sum not exceeding forty shillings for every offence.

Sect. 6. When the said annoyance jury, upon their own view and knowledge, find any annoyances, obstructions, or encroachments, upon any of the publick ways within the said city and liberty, of such a nature as to require as speedy removal as may be, or which can be removed in a less time than fourteen days, it shall be lawful for the said jury, by an order in writing, left at the house of the person who caused or suffered such annoyance, &c. to direct such person to remove the same, in a reasonable time specified in such notice; and if all such annoyances, &c. be not removed within such time, the said jury shall amerce the person causing such annoyance, &c. in such sum as they think proper, not exceeding forty shillings for each offence.

Sect. 7. No person shall set up or cause to be set up, in any of the publick streets, lanes, or passages within the said city and liberty, any hoard or fence, without licence under the common seal of the said court first obtained, in which licence shall be expressed the length and breadth of such hoard and fence, and also the time the same shall be allowed to continue; which licences the said court are to grant to all persons applying,

ing, at the discretion of the said court, and no more than five shillings shall be paid for each licence. And if any person erect or cause to be erected, any house or fence, within the limits aforesaid, without such licence, or not agreeable to the directions thereof, or suffer any materials for building to remain on the outside of any house or fence, above forty-eight hours, every person offending in any of the cases aforesaid, shall be amerced by the said jury in a sum not exceeding forty shillings, for every such offence.

Sect. 8. Provided that such licences be not construed to extend to be a defence to any prosecution for a nuisance.

Sect. 9. All weights and measures made use of by persons dealing by weight or measure, within the said city and liberty, shall be sized and sealed by the standards belonging to the said city, and also marked with a port-cullis, by the officer already appointed for that purpose, or by such other officer as may hereafter be appointed by the said dean, high steward, or his deputy, the two chief burgesses, and the other burgesses of *Westminster*, or any five of them, whereof the said dean, high steward, or his deputy, to be one, at a court to be held for that purpose; which officer is, upon application, to seal and mark all weights and measures brought to him, which shall be agreeable to the standards belonging to the said city; and the said officer shall receive for each weight and measure so sealed and marked, the fees following, *viz.* for every bushel, four pence; for every half bushel, two pence; for every peck, half peck, and quarter peck, one penny; for all half pecks or quarter pecks, *per dozen*, ten pence; for every sack, two pence; for every ale and beer measure, one farthing; for every hundred weight, four pence; for every half hundred weight, two pence; for all

all-pound weights, and all other weights under half a hundred weight, one half penny; for all ounce weights, and all other weights under a pound one farthing; and all weights and measures belonging to persons dealing by weight or measure within the said city and liberty, not sealed and marked in manner before directed, shall be deemed unlawful; and the said annoyance jury, or any twelve of them, shall destroy all such unlawful weights and measures, and amerce the owners or the persons in whose possession the same was found, in any sum not exceeding forty shillings, for any one offence.

Sect. 10. The officer already appointed, or to be appointed as aforesaid, after all necessary charges attending the fixing, sealing, and marking, such weights and measures, first deducted, shall, half yearly, within one kalender month next after the twenty-fifth of *March*, and the twenty-ninth of *September*, in every year, pay or cause to be paid to the deputy steward of *Westminster*, for his trouble and expence in attending his office of deputy steward of *Westminster*, one moiety of the clear money arising from such fixing, sealing, and marking.

Sect. 11. If any annoyance jurymen neglect or refuse to execute the duty of his office of jurymen, it shall be lawful for the said court, upon complaint to five such jurymen, for every such offence, to amerce such jurymen in any sum not exceeding forty shillings.

Sect. 12. The high constable for the said city and liberty, is to obey all lawful orders which he receives from the said dean, high-steward, or his deputy, at any court holden for the said city and liberty; and all petty constables are to be assisting to the high constable, in the execution of all such orders; and if the said high constable, or any petty constable, refuse or neglect

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left to obey such orders, or misbehave in their respective offices, the said court shall fine any high and petty constable so offending, in any sum not exceeding forty shillings, for every such offence.

Sect. 13. No person within the said city or liberty of *Westminster*, shall be liable to serve as a constable, or to find a person to serve in his stead, who is of the age of sixty-three years or upwards; nor shall any person be liable to serve either as a leet or annoyance juryman, who is of the age of seventy years or upwards.

Sect. 14. The said dean, high steward, or his deputy, shall adjourn the court leet held for the said city and liberty, from time to time, as often as convenient: and if any leet juryman appointed or to be appointed, by virtue of the 29 Geo. 2. c. 25. neglect to attend the said court leet, as often as is required by the said court, or in any other manner neglect the duty of his office of juryman, it shall be lawful for the said court leet to fine such juryman for every such offence, in any sum not exceeding forty shillings.

Sect. 15. The said high bailiff, or his deputy or deputies, shall forthwith execute all warrants which they receive, for levying any fine imposed for any offences against the said act or this act, from the said court leet, or from the said court of burgesses, or from any justice of peace before whom any person may be convicted for any offence against the said acts; and in case the said high bailiff, or his deputy or deputies, neglect to execute any such warrant, or to pay over all such fines as he receives by virtue of any such warrant, according to the said act, it shall be lawful for the said court leet, or court of burgesses, respectively, to fine such high bailiff, or his deputy or deputies, so offending, in any sum not exceeding five pounds, for every such offence; and if any fine imposed upon the said high bailiff, or his deputy or deputies, by the said court leet, or court

court of burgesses, remain unpaid for one calendar month, next after the same is so imposed, the high-constable of the said city and liberty of *Westminster*, shall, by any warrant from the said court leet, or court of burgesses respectively, directed to him for that purpose, levy such fine imposed on the said high bailiff, or his deputy or deputies, by distress of the goods of the said high bailiff, or his deputy or deputies, and cause sale to be made thereof in case they be not redeemed within five days next after such distress made, rendering the overplus, if any, to the owner, after deducting the charges of distress and sale.

Sect. 16. It shall be lawful for the said high bailiff, or his deputy or deputies, to retain in his hands one fourth part of the sums levied by him or them, for the fines set by virtue of this or the said act, in consideration of their trouble and expence in levying the same.

Sect. 17. The remaining three fourth parts of all the said fines, shall be paid over by the said high bailiff, or his deputy or deputies, to the respective overseers of the several parishes in *Westminster*, within the like time, and applied by them to the same uses, as are directed by the said act, with respect to the whole of such fines.

Sect. 18. All fines and amerciaments imposed upon any person by virtue of this act, shall be levied, recovered and applied, except where the same are directed to be otherwise levied, &c. by this act, in the same manner as the fines and amerciaments imposed by the said act.

Sect. 19. The said high bailiff, or his deputy or deputies, shall from time to time, transmit to the said court of burgesses, an account of all fines and amerciaments by him levied or received, in pursuance of this or the said act, and the clerk of the said court of burgesses, shall, in a book,

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a-book, make entry of all fines and amercia-
ments imposed by virtue of this or the said act,
and an account of all monies received in pursu-
ance thereof, or on account of licences granted
for erecting houlds, and the application of the
several sums so received; which account the re-
spective overseers of the several parishes in *West-*
minster, shall have liberty to inspect at all season-
able times, upon application to the said clerk,
and take copies thereof so far as relates to the
said fines.

Sect. 20. This act shall commence and have
continuance from the twenty-ninth of *September*,
1758.

Sect. 21. If any suit be brought for any
thing done in pursuance of this act, or in rela-
tion to the premises, the action shall be com-
menced within six months next after the fact
committed, and shall be laid in the county of
Middlesex, except such person against whom such
action is brought, reside in the city of *London*;
in which case the said action shall be laid in *Lou-*
don; and the defendant may plead the general
issue; and if the plaintiff be non-suit, &c. the
defendant shall recover treble costs.

Sect. 22. This act shall not extend to the
church or college of *Westminster*, nor to the close
of *Westminster*, nor to any person inhabiting
within the precinct of the said church, college,
or close, for any offence or misgovernment com-
mitted within the said precinct.

Physicians
and Apothe-
caries.

The king's charter for incorporating the *Col-*
lege of Physicians, is confirmed by the statute 14
and 15 *Hen. 8* and they are to have a president,
and perpetual succession, a common seal, and
ability to purchase lands, &c. Eight of the
chiefs of the college shall be called elects, who
from amongst themselves are yearly to chuse
their president; and four physicians must be
chosen by the college to search apothecaries wares,
&c.

Es. who are to be termed censors, and have an oath given them by the president: and if any shall practise physick in the city of London, or within seven miles thereof, without the licence of the said college, he shall forfeit five pounds a month,

But every member of the *College of Physicians* is authorised to practise surgery in London, or elsewhere; and persons having a knowledge and experience in herbs and roots, may minister to outward sores and swellings, any herbs or ointments, according to their skill, and also drinks for the stone, strangury or agues, without licence, or incurring any penalties by statute.

By a late act, the four persons called censors, annually elected by the president and *College of Physicians*, calling to their assistance the wardens of the Apothecaries company, in London, or one of them, are empowered to enter into the houses, shops, or warehouses of apothecaries, or others who sell drugs, and examine the medicines, and to burn or destroy those that are defective or decayed, or not fit for use; but subject to appeal to the *College of Physicians*, Es. and apothecaries resisting the search, incur a forfeiture of ten pounds. Stat. 10 Geo. 1. c. 20.

The statute *de quo warranto*, 30 Edw. 1. *Quo warranto*. enacts, that all men shall be permitted to enjoy their antient liberties; and on proclamation made, are to shew their tenures to the justices, or shall forfeit their franchise: the attorney-general may bring a *quo warranto* against any body politick, Es. that claims franchises and privileges, not having a legal grant or prescription, and compel them to shew what title they have to any liberties claimed, Es. 2 Inst. 494.

By judgment in *Trinity term*, 35 Car. 2. the franchises of the city of London were seized into the king's hands as forfeited, on a writ of *quo warranto*; but by stat. 2 W. and M. sess. 1. c. 8. recite

8. reciting that judgment given in the *King's Bench*, against the mayor, and commonalty, and citizens of *London*, that the franchise of the said city should be seized into the king's hands; it is enacted, that the said judgment, and every other judgment, given or recorded in the said court, for seizing the franchise of the city in the hands of the king, shall be reversed and made void.

And the proceedings on the *quò warrants* were declared illegal and arbitrary. All new charters by this law were adjudged void; and the citizens restored to their ancient liberties and customs.

They are to remain a corporation, without any seizure of their franchise, on any pretence of forfeiture, or misdemeanour done, or to be done, &c.

Recogni-
zances.

In *London*, the mayor, &c. may take recognizance of statutes merchant, and of the staple for debt, &c. if the debt be not paid at the day, the goods and chattles of the debtor are to be seized and sold to satisfy the debt; and if the debtor have no moveables in the mayor's jurisdiction, the mayor is to transmit the recognizance to the lord-chancellor, who shall issue a writ to the sheriff of the county where he has goods to levy the debt. Stat. 13 Ed. 1.

Also two merchants shall be chosen in the city of *London*, and one part of the seal delivered to them, and the other to the clerk of the statutes merchant; and the mayor, &c. may cause a debtor to be imprisoned till he agree the debt due; and if he do not pay it in a quarter of a year, his lands and goods are to be delivered to the creditors on a reasonable extent. Stat. de Mercat. 13 Ed. 1.

Out of term, the mayor of the staple at *Westminster*, and the recorder of *London*, may jointly take recognizances for payment of debts. 23 H. 8. c. 6. and they are to be inrolled, to bind lands,

lands, 29 Car. 2. c. 3. the persons before whom taken, and parties acknowledging, are to sign names to several rolls, and the recognizances.

8 Geo. 1. c. 25.

See *Gawlets*.

See *Streets*.

See *Brokers*.

See *Pavement*.

Rent.
Sewer.
Stockjob-
bers.
Streets.
Tithes.

By the statutes 22 and 23 of king *Charles II.* the tithes of the parishes within the city of *London*, are ascertained; no parish shall have less than one hundred pounds a year, nor above two hundred pounds *per annum*, besides glebes, perquisites, and gifts, to the parsons, vicars, and curates.

The aldermen of the respective wards, and common-council-men, and church wardens of parishes, or any five of them, whereof the alderman or his deputy, to be one, are to make assessments upon all houses, shops, &c. to levy the said tithes; and on non-payment, the same may be levied by distress, by warrant from the lord-mayor, the person refusing, being first summoned to appear before his lordship: and if the lord mayor, &c. neglect to execute this statute, the lord-chancellor, or two barons of the Exchequer, may do it.

These tithes thus ordained, are to be accounted for quarterly: and by an ancient statute, persons exercising merchandize, trades, &c. in *London*, were to pay personal tithes, *viz.* the tenth part of their clear gains, 2 and 3 *Ed.* 6.

It is ordained by statutes, that the mayor and aldermen of *London*, are to regulate the defaults of victuallers, poulterers, &c. and victuallers, &c. coming with their victuals and provisions to *London*, shall be under the governance of the lord mayor and aldermen, and sell them at the prices appointed.

By the 6 *Rich.* 2. c. 9. No victualler in *London*, or any other city, borough, &c. shall exer-

cise

cise any judicial office there; and in case any be chosen into such office, he shall forbear to use victualling during his office, on pain to forfeit the victuals sold: but the 3 H. 8. says, when a victualler in a city or corporation, is chosen to bear an office, by reason whereof he ought to have the assizing of victuals, two others (being no victuallers) shall be joined and sworn with him, truly to assize, &c.

But here the officers in *London, York, &c.* are excepted.

Waste.

On trying actions of waste in *London*, a jury shall be empannelled out of the four wards next adjoining to the place wasted; and this is the custom of the city.

In a writ of waste, process is to be made against the tenants by summons, attachment, and distress; and if the defendant come and plead, then he shall have an essoin, and so after every appearance; but if he make default at the grand distress, then there shall be a commandment to the sheriff, by precept from the mayor, that the sheriff shall come to the place wasted, and enquire of the waste and damages, according to the statute, and return the same at the next hustings of common pleas; and the plaintiff shall recover the place wasted, and treble damages. Stat. 13 Ed. 1.

Water.

The city of *London* may be supplied with water from the river *Thames* near *Chelsea*; and commissioners appointed, who are made a corporation, and may purchase lands, &c. Persons casting filth into water-courses, incur a forfeiture of forty shillings, and interrupting the works, shall pay treble damages, by the stat. 8 Geo. 1. c. 26.

Watermen
and Lightermen.

The stat. 2 P. and M. c. 16. enacts, that out of the watermen between *Gravesend* and *Windsor*, eight overseers shall be chosen by the court of aldermen. Wherries are to be twelve foot and a half

half long, and four foot and a half broad in the midship, or be liable to forfeiture: watermens names are to be registered by the overseers; and their fares appointed by the court of aldermen, &c. and the lord-mayor and aldermen of London, and the justices of the peace of the counties adjoining to the *Thames*, have power to determine offences.

By stat. 11 and 12 W.3. c. 21. lightermen, &c. on the *Thames*, between *Gravesend* and *Windsor*, are to be of the society of Watermen and Wherry-men, who are made a company. The lord-mayor and court of aldermen shall yearly elect eight of the best watermen, and three of the best lightermen, to be overseers and rulers; and the watermen shall choose assistants, not exceeding sixty, nor less than forty, and the lightermen nine, at the principal stairs, for preserving good government.

The rulers, &c. on their court days are to appoint forty watermen to ply on *Sundays*, betwixt *Fauxhall* and *Limehouse*, for carrying passengers cross the river, and to pay them for their labour, and apply the overplus of the money for decayed watermen, &c. they may make rules to be observed under penalties; and the lord-mayor and aldermen, on complaint, are to hear and determine offences, &c. none but such as have served their time, or are servants or apprentices to watermen, shall row or ply on the river. Same stat.

No waterman on the *Thames* shall take any apprentice or servant, unless he registers the place of his known habitation with the clerk of the company, on pain of ten pounds; and if any person, not having served seven years to a waterman, shall row any boat for hire, he incurs the like penalty; but gardeners boats, dung boats, lighters, &c. are excepted. Stat. 2 Geo. 2. c. 26.

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Rates of watermen; all the stairs between *London Bridge* and *Westminster*, are; six pence, oars, three pence skulls; from above *London Bridge* to *Lambeth* and *Vauxhall*, oars one shilling, skulls six pence; and from *London Bridge* to *Limbeuse*, oars one shilling; and boats and wherries may be licensed by justices, to travel on a *Sunday*. By an order of the rulers, watermen using any lewd expressions on the river of *Thames*, are to forfeit two shillings and six pence, for every offence.

Weights and measures.

By charter, four justices from among the mayor, recorder, and aldermen of *London*, of which the mayor or recorder to be one, may hold a sessions to enquire into several offences, *viz.* into weights and measures, and selling contrary to the statute, to receive indictments and punish offenders. Also the lord-mayor for the time being, may grant his warrant to persons to examine and try all weights and measures, &c. *Chart. Car. 1.*

By the statute 11 *Hen. 6. c. 8.* the mayor of *London*, and all other mayors and bailiffs, on their oaths, shall be charged to keep and execute the statutes for observing due weights and measures.

By magna charta 9 *Hen. 3.* there is to be one measure of wine, ale, and corn, throughout the kingdom. And by other statutes, measures and weights of brass, shall be sent to every city and borough, and mayors are to seal measures; they are likewise to view all measures and weights, once a year, to see that they be lawful, and break and burn those which are defective; also levy a penalty of six shillings and eight pence, &c. stat. 8 *H. 6. 7 H. 7. 11 H. 7. 22. Car. 2.*

Wine.

King *Edward III.* by letters patent, granted to the mayor and commonalty of *London*, that no prisage shall be paid for any of the citizens wines; and prisage is a duty of one tun be, fore.

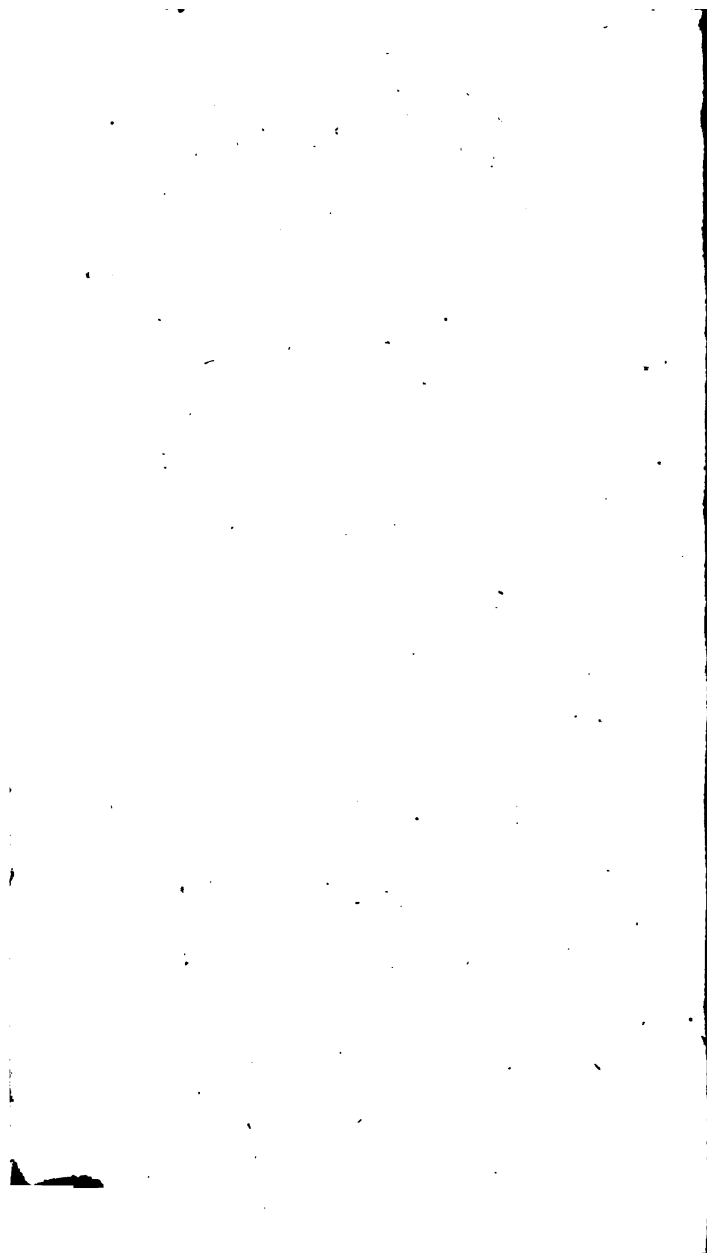
fore the mast, and one other ton behind the mast, taken of *English* merchants for all wines brought from beyond sea into the coasts of *England*. Stat. 1 *Hen.* 8. c. 5.

By statute 28 *Hen.* 8. c. 14. the lord chancellor, &c. has power to set the prices of all kinds of wines, by the but, tun, pipe, hogshead, &c. Persons selling at other prices, are to forfeit forty pounds for every vessel sold. The 37 *H.* 8. c. 23. ordains that none shall sell wines either in gross, or by retail, above the prices appointed, under the penalty aforesaid. And persons refusing to sell accordingly, the mayor, recorder, &c. may enter their houses, and sell the wines at prices assessed.

The 7 *Ed.* 6. c. 5. provides, that licences shall be had for such as sell wines by retail in *London*, &c. And the stat. 12 *Car.* 2. c. 25. was made for licensing retailers of wine; and the king may issue out commissions to commissioners, to licence whom they think fit for twenty-one years, or under, and for such rent as they can agree. The price of wines is limited by this act, but the chancellor, &c. may alter the prices. All persons selling wines in gross, mingled or abused, incur a forfeiture of one hundred pounds, and retailers forty pounds, one half to the king, the other to the informer.

The privileges of the company of Vintners in *London* and other cities, and of the universities, are saved by this act.

By 1 *W. and M.* c. 34. Merchants, &c. adulterating wine, shall forfeit three hundred pounds.



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